

***United States Court of Appeals
for the Second Circuit***



JOINT APPENDIX

74-1550

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74-1550

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NO. 74-1550

THE UNITED STATES OF AMERICA,
Plaintiff-Appellee,
-against-
CARMINE TRAMUNTI, et al.,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

253
DEFENDANTS-APPELLANTS' JOINT APPENDIX
Vol. T(7) - Pages 827 to 968

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2 UNITED STATES OF AMERICA

3 vs.

4 CARMINI TRAMUNTI, et al.

5
6 New York, February 5, 1974,

7 10:00 a.m.

8 Trial resumed.

9
10 - -

11 (In open court; jury not present.)

12 THE COURT: Mrs. Rosner, I understand that you
13 have the first and only case in the Court of Appeals
14 today?

15 MRS. ROSNER: Yes, your Honor.

16 THE COURT: We are going to have the cross
17 examination continued by Mr. Rosenbaum. Is that
18 agreeable with you?

19 MRS. ROSNER: It is, your Honor. Mr.
20 Fisher will represent Mr. Inglese's interest during the
21 cross. I understand that the redirect will be held until
22 I return.

23 THE COURT: Yes, I will hold it.

24 MRS. ROSNER: Thank you, Judge.

25 THE COURT: All right.

MR. LOPEZ: Judge Duffy, just for the record, for this morning, your Honor, until about 11:30, I will be representing Mr. Pugliese in behalf of Mr. Rosenberg, who is engaged in the Supreme Court, Kings County.

THE COURT: Yes.

MR. LOPEZ: The defendant consents to that, your Honor.

THE COURT: All right. Bring back the jury.

F R A N K S T A S I resumed.

(Jury present.)

THE COURT: Good morning, ladies and gentlemen.

Mr. Stasi, you may remember that you took an oath. That oath continues.

THE WITNESS: Yes, I do, your Honor.

THE COURT: All right. Mr. Rosenbaum.

CROSS EXAMINATION CONTINUED

BY MR. ROSENBAUM:

Q Mr. Stasi, after we ended our session yesterday you spoke with Mr. Phillips last night, didn't you, or this morning?

A I did.

1 jha
2 Q But you didn't discuss any aspect of this testi-
3 mony with him, did you?

4 A No.

5 Q You testified yesterday there were a few
6 occasions when you had fights when you helped your friends
7 out at the various bars you went to, is that correct?

8 A That's right.

9 Q Did you ever have a fight in the Centaur Bar?

10 A I did not.

11 Q Any other bars or taverns that you went to at
12 night --

13 MR. PHILLIPS: Objection, your Honor. It's
14 the same line of questioning that Mr. Rosenbaum went into
15 at the end of yesterday.

16 THE COURT: I think he is just trying to put
17 his next question in context. I will permit it.
18 Go ahead.

19 Q Which bars did you have these fights in, these
20 fights that you discussed?

21 MR. PHILLIPS: Objection.

22 MR. ROSENBAUM: Your Honor, this is the
23 problem of resuming cross examination.

24 THE COURT: Yes, I am well aware of that.
25 He said he had fights in bars, but he said that other people

1 he was with started them.

2 What bar was it in?

3 A One was, we will say, the Golden Hour in the
4 Bronx, Pelham Parkway and Boston Post Road. That's
5 about it, that I could remember.
6

7 There was never one in the Centaur when I was
8 there. You mentioned the Centaur.

9 Q There was never a fight when you were there?

10 A I says I don't know. Now when I was
11 there.

12 Q When did you first start going down to the
13 Centaur?

14 A I just couldn't tell you.

15 Q You don't know?

16 A I don't know when I started.

17 Q Would you know what year it would be in?

18 A Couldn't tell you.

19 Q I believe you testified that you started to
20 go down to the Centaur in 1972. I may be wrong.
21 Does that refresh your recollection?

22 A It's possible.

23 Q Who subgested you go down to the Centaur?

24 A I used to go down there myself, because I
25 knew there was girls down there and that's why I used to

1 jha

Stasi-cross

831

2 go down there.

3 Q You knew there were hookers down there,
4 prostitutes down there?

5 A That's right.

6 Q Is that the reason why you first started to
7 go to the Centaur?

8 A On different occasions, because I knew -- there
9 was somebody that told me that Vinnie used to sell pouches.

10 MR. ROSENBAUM: Your Honor, I object to that
11 as not being responsive.

12 A What else could I say? That's all I could
13 tell you.

14 THE COURT: That is the answer to the ques-
15 tion you asked.

1B

1
2 Q You went down there because you thought there
3 were hookers down there, right?

4 A I said that, right.

5 Q And you took out these hookers, is that correct?

6 A I did.

7 Q And you snorted cocaine at the same time you
8 took out these hookers, is that correct?

9 A I did.

10 Q And you drank at the same time, is that correct?

11 A I did.

12 Q You testified that on May 22nd, when you were
13 arrested, and after careful consideration, you were going
14 to cooperate with the authorities, is that correct?

15 A That's right.

16 Q Because you felt that what you did before was
17 immoral?

18 A I don't know what that word means.

19 Q You felt that what you did before was wrong?

20 A I felt that way.

21 Q At that time you felt that lying was wrong also,
22 I presume?

23 MR. PHILLIPS: Objection, your Honor. It's
24 argumentative.

25 THE COURT: It is argumentative.

hp2

Stasi-cross

1
2 Q Did you feel that to lie was wrong?

3 MR. PHILLIPS: Objection.

4 THE COURT: It doesn't much matter. Go ahead,
5 answer it.

6 A I wasn't lying.

7 Q Did you lie after May 22nd to the authorities?

8 MR. PHILLIPS: Objection as repetitious, your
9 Honor, and too broad.

10 THE COURT: It is way too broad, counsel. See
11 if you can reframe it.

12 MR. ROSENBAUM: Thank you, your Honor.

13 Q When you went to other debriefing sessions after
14 May 22nd did you tell any lies to the authorities?

15 MR. PHILLIPS: Objection.

16 THE COURT: No, I will permit it.

17 A Did I?

18 Q Yes, did you.

19 A I lied and I didn't lie.

20 Q You lied?

21 A I says I lied and I didn't lie.

22 Q When did you lie?

23 A I couldn't tell you.

24 THE COURT: No, no.

25 Q At what point did you feel it was justified to

1 hp3 Stasi-cross

2 lie?

3 A I thought -- I was trying to satisfy them and
4 when I seen I couldn't I helped myself by telling the
5 truth. That's all I can say.

6 Q I don't understand that answer. Could you please
7 explain that to me.

8 A Well, then you tell me -- say the question
9 again and I'll repeat it.

10 Q You said, Mr. Stasi, that there were times you
11 lied?

12 A Right..

13 Q And I am asking you when did you feel it was
14 justified to lie.

15 A I don't know. I couldn't tell you. Sometimes
16 I was telling the truth, sometimes I was lying. I thought
17 I was satisfying them by giving some of these lies and I
18 seen I wasn't. Then I told the truth.

19 Q In other words, when you thought that it would
20 satisfy the authorities you would lie in your answers to
21 their questions, is that correct?

22 MR.PHILLIPS: Objection as repetitious and
23 argumentative.

24 THE COURT: Yes, it is.

25 Q You would lie, Mr. Stasi, when you thought that

1 hp4 Stasi-cross

2 was the answer the authorities wanted?

3 MR. PHILLIPS: Objection.

4 THE COURT: That is the same thing.

5 Q Did you lie to them on July 10th?

6 MR. PHILLIPS: Objection again, your Honor.

7 THE COURT: That is a little broad. Ask specifics.

8 Q When you were being debriefed, Mr. Stasi, on
9 July 10th by the authorities did the authorities then accuse
10 you of lying?

11 MR. PHILLIPS: Objection.

12 THE COURT: Did they accuse him of lying?

13 MR. ROSENBAUM: Yes, during the debriefing
14 sessions.

15 MR. PHILLIPS: It's argumentative, your Honor.
16 I object to the form of the question. Also, it's too
17 broad.

18 THE COURT: I don't see what the relevancy is.
19 That is my problem. I will sustain the objection.

20 Q Mr. Stasi, when you worked at the Beach Rose
21 you were taking numbers there, is that correct?

22 A That's right.

23 Q Did you ever commit any of these numbers to
24 memory?

25 A I always wrote them down.

hp5

Stasi-cross

2 Q You always wrote them down?

3 A That's right.

4 Q In other words, when customers came in you wrote
5 these numbers down, you never committed anything to memory?

6 A I couldn't remember the numbers. You get quite
7 a bit. How can I remember all the numbers?

8 Q Did you remember any numbers?

9 A Do I remember any of the numbers?

10 Q Yes.

11 A I could say a few numbers, yes.

12 Q How long would you have to remember those numbers
13 for?

14 A I always wrote them down. I don't remember
15 nothing. I wouldn't remember any numbers.

16 Q A few moments ago you said you used to remember
17 some numbers.

18 A No.

19 MR. PHILLIPS: Objection, your Honor.

20 A You had said, "Do you know any numbers?" That's
21 what I heard you say.

22 THE COURT: All right. Sustained.

23 A I'm sorry.

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Q Now, you testified that you made a previous sale, a sale of heroin to Mr. D'Amico; is that correct?

A That's right.

Q You testified on trial that you sold one-eighth kilo of heroin to Mr. D'Amico; is that correct?

A Kilo? I didn't say that.

Q An eighth of a kilo.

A It was wrong. I know that. That was wrong at the time.

Q How much did you sell to him?

A A quarter.

Q A quarter of a kilo?

A Yes.

Q And you sold it for how much money?

A Seven thousand.

Q Now, do you know where that sale took place, where the delivery took place?

A It was delivered to me at the Pelham Log Cabin by George Toutoian. I in turn delivered it to Vinnie's house on 57th Street.

Q You are sure it was a quarter of a kilo?

A Definitely.

Q And you are sure it was for \$7000?

A That's right.

2 Q Now, do you recall when you were arrested on
3 May 22nd, you had a conversation with the authorities with
4 reference to a sale of heroin to Mr. D'Amico?

5 A I do.

6 Q And did you tell the authorities at that time
7 that you were to receive or you got \$7000 for this sale?

8 A I did.

9 Q You did. And did you tell the authorities at
10 that time that you sold to Mr. D'Amico a quarter of a kilo
11 of heroin?

12 A I told them that it was an eighth, and then I
13 returned -- I made a mistake, and I says it was a quarter.

14 MR. ROSENBAUM: Will you bear with me one moment,
15 please, your Honor?

16 THE COURT: All right.

17 MR. ROSENBAUM: Reel R-426.

18 MR. PHILLIPS: Government's Exhibit 3527-A.

19 Q I read to you the bottom of page 2 --

20 MR. PHILLIPS: Your Honor, I object to this
21 manner of using thos document to cross-examine. It is not
22 in evidence.

23 THE COURT: All right. What portion?

24 MR. ROSENBAUM: On the bottom of page 2, your
25 Honor.

THE COURT: Does anyone have a date on this, on this particular reel?

MR. ENGEL: May 25, 1973.

THE COURT: May 25, 1973?

All right, Mr. Rosenbaum. Start off by saying, "On May 25, 1973" --

Q On May 25, 1973, were you asked this question:

"Q What did you sell on these two occasions" -- referring to Vinnie.

"A On the first two occasions, two ounces of H, and on another occasion, I'm not sure, an ounce or two of coke."

Do you remember being asked those questions and giving those answers?

A I do.

Q Did you sell two ounces or was it a quarter of a kilo of heroin?

A 'way before that, I sold him a quarter --

Q You mean, 'way before, there was another transaction?

MR. PHILLIPS: Objection.

THE COURT: Overruled.

A The other thing was a sample of coke.

Q I'm talking about heroin, only heroin.

1 A A quarter I had sold him.

2 Q At any time during the debriefing did you tell
3 the authorities that you had sold a quarter of a kilo of
4 heroin? Do you remember any time during your debriefing,
5 from May 22nd on, that you told the authorities that you
6 sold Vinnie D'Amico a quarter of a kilo of heroin?

7 A I did. First I said an eighth. Then I rephrased
8 myself. I said a quarter.

9 Q Do you know when that was said?

10 A What?

11 Q That you sold an eighth and then a quarter?

12 A When was it?

13 Q Yes.

14 A I said all the while that it was a quarter.

15 Q Mr. Stasi, I have searched the record --

16 MR. PHILLIPS: I object.

17 THE COURT: No, unless you want to take the oath
18 and get on the stand.

19 Q Mr. Stasi, do you recall saying to the authori-
20 ties that you received \$7000, during the debriefing?

21 A Yes. For the quarter I got \$7000. That's
22 right.

23 Q And when did you say that to the authorities?

24 A I don't recall. I know they had asked me a
25

question, and I had said it. I don't know when.

Q When was the \$7000 sale allegedly made by you?

A I don't know the date, what year it was.

Q You don't know? Was it one of your bigger sales?

A That was my first sale.

Q It was your first sale?

A That's right.

Q Do you know where it was made, this first sale?

A I said it was delivered at the Log Cabin from George Toutoian. I in turn brought it to Vinnie's apartment at 57th Street.

Q And you have no idea when your first sale was made?

A I says I don't write nothing down.

Q Was this your first sale to Vinnie or your first sale, period?

A It's -- the first sale I ever made.

Q You had never made any to anyone?

A No.

Q It was your first sale to Vinnie, or you had made prior sales to other people?

A I says it was the only sale, and it was to Vinnie alone.

Q That was the only sale you ever made?

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A That's right.

Q To anyone?

A That's what I said.

Q Now, is it your testimony that the one and only sale you have made, you don't have any idea when that was made as far as date; is that right?

A That's right.

Q Now, you recall your cross-examination when you were examined yesterday -- I am sorry -- I believe it was Friday, by Mr. Fisher, when he asked you --

MR. ROSENBAUM: I refer to page 658, line 6 of the trial testimony.

Q (Continuing) "Q Now, in addition to those eight occasions" -- referring to the eight mixing sessions -- "you have admitted on two occasions you sold narcotics to Allie Boy, an undercover agent; is that right?"

A That's right.

Q On one of these occasions it was a quantity, approximately a pound; is that right?

A Well, I don't know how the weight.

Q Roughly.

A All right. Okay."

I go down to the bottom of the page, 658, line

22.

1 "Q Now, in addition to the two sales to Allie Boy
2 and the eight times that you mixed heroin, approximately,
3 sir, how many narcotics transactions have you participated
4 in?
5

6 "A With Allie Boy?

7 "Q With anyone, since the middle of 1970.

8 "A Number, sir?

9 "Q How many?

10 "A Well, I would say two with Allie Boy and what
11 I delivered to the club. Is that a sale? I don't under-
12 stand those questions.

13 "Q Those are the only times, sir?

14 "A That's the only times, right."

15 A Well, to me, I didn't understand. Now you
16 says to me right now, is that your first sale?

17 Q Didn't you --

18 MR. PHILLIPS: Objection, your Honor. I think
19 the witness should be permitted to answer.

20 THE COURT: Yes.

21 A You says, is this the first time? I says yes.
22 Now, I don't know if you mean with Allie Boy. That's my
23 second sale.

24 Q Just one moment, Mr. Stasi. You said a few
25 moments ago, to the best of my recollection, you only made

1 one sale. One sale, period, and that was to Mr. Vincent
2 D'Amico.
3

4 A Well, that's what you had asked me. That's
5 how I'm answering the question.
6

7 Q And I said, is that the only sale you made to
8 anyone, and you said yes.
9

10 A Well, rephrasing to that question, yes.
11

12 Q You never made any other sale?
13

14 A Then I would say Allie Boy, then. An undercover
15 agent. I don't know how to answer that question. That's
16 the only way I could answer it.
17

18 Q A few moments ago, Mr. Stasi, I asked you, was
19 that the only sale --
20

21 MR. PHILLIPS: Objection.
22

23 Q (Continuing) Was that the only sale you ever
24 made, and you said yes.
25

THE COURT: We have already gone through yet.

MR. ROSENBAUM: I know.

Q (Continuing) And I asked you, do you remember the
date you made the sale, since it was your only sale?

MR. PHILLIPS: Objection.

THE COURT: And he said no. We were all here
and watched him.

Q (Continuing) Now you testified that the only

1
2 sale you made was to Allie Boy; is that right?

3 MR. PHILLIPS: Objection.

4 THE COURT: Well, we have been all through here
5 with that.

6 MR. ROSENBAUM: All right.

7 Q Mr. Stasi, do you remember getting a new nickname
8 in the Centaur, people named you The Creep?

9 A No. Called me? I never heard of it.
10 I appreciate that word.

11 Q You appreciate it?

12 A Yes.

13 Q Now, was that the first time when you sold or
14 delivered heroin to Mr. D'Amico -- was that the first time
15 you were ever in Mr. D'Amico's apartment?

16 A I says I know him by "Vinnie." You're talking
17 about Vinnie now?

18 Q Right. You were never in Vinnie's apartment
19 before that?

20 A I think it was. That's the only time.

21 Q Were you ever in the apartment before that, even
22 though it may not have been rented by Vinnie?

23 A Yes; I think I was.

24 Q You think you were?

25 A Right.

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Stasi-cross.

846

Q And when were you in that apartment?

A I couldn't tell you.

Q What was the reason that you went to that apartment before Vinnie rented it?

A Because I had went there, I had brought him some coke.

Q I said, before Vinnie rented it.

A I don't know. I never went there before he rented it.

1
2 Q Wasn't that Jinx's apartment?

3 A He had told me it was.

4 Q You were never at Jinx's apartment?

5 A I was never at Jinx's apartment. Jinx had
6 told me it was his apartment, but I never went there when
7 Jinx had it.

8 Q You never took two prostitutes up to Jinx's
9 apartment?

10 A No, never did.

11 Q Did you ever go with Jinx to the apartment when
12 Vinnie rented the apartment?

13 A I don't recall if I did.

14 Q Do you recall if Jinx was owed money by Vinnie
15 for the furniture in that apartment?

16 A That I know, yes.

17 Q Do you remember going up with Jinx to get
18 money?

19 A I think I do, yes.

20 Q How many times?

21 A With Jinx?

22 Q Yes.

23 A I would say one time that I know of, and that's
24 the time that he says, "There's the guy, I gave him my
25 apartment. I did it" -- I forget what the amount was.

mpa2

Stasi-cross

1 He says -- I had him, "I think he lives on 57th Street."

2 He says, "Well, let's go and see him." And
3 he wanted to get some money off him.

4 Q And you went up there with Jinx?

5 A That's right.

6 Q Was that -- do you know when that was?

7 A I couldn't tell you.

8 Q Did you see Vinnie giving money to Jinx?

9 A I don't recall.

10 Q Did Vinnie give \$50 of payment to Jinx towards
11 his furniture?

12 A I don't know. I can't remember.

13 Q Do you remember if the furniture that Jinx had
14 was the same furniture that Vinnie had?

15 A I says I don't know about the furniture. I
16 don't know who was up in Jinx's apartment before. I
17 don't know if it's the same furniture. It couldn't
18 tell you.

19 Q You never went up to Jinx's apartment when Jinx
20 rented it?

21 A That's right. That's what I said.

22 Q Do you remember on May 22nd, when you were de-
23 briefed by the authorities, you said you knew Vinnie
24 only by the name of Vinnie?
25

2 A That's what I said.

3 Q How did you know Rizzo was his name, to use
4 the name Rizzo on the prior transaction when you sold
5 heroin?

6 A Because on the bell, 2B, he told me about it,
7 it says "Rizzo." Vinnie told me, "When you come to the
8 house you ring 2B, it says 'Rizzo.'"

9 Q So you knew Rizzo was his name prior to May
10 2nd?

11 A That's how we got upstairs, me and Jinx.

12 Q Please answer my question, Mr. Stasi.
13 Before May 22nd you knew Vinnie was using the name Rizzo,
14 is that correct?

15 A Yes.

16 Q You knew it because you are testifying you went
17 down to his apartment and you saw on apartment 2B the name
18 Rizzo?

19 A That's right.

20 Q But then on May 22nd you said you don't
21 even know his last name, is that correct?

22 A Well, I might have been confused at the pre-
23 sent time. It's possible.

24 Q Were you confused on May 22nd as to Vinnie's
25 last name?

mpa4

Stasi-cross

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A I don't think so.

Q But you said you didn't know Vinnie's last name
on May 22nd?

A That's right. As I said, I might have been
confused. I was there.

Q Were you confused or you just forgot?

A I forgot.

Q Or you never knew his last name?

A I am telling you it's 2B and "Rizzo" is on the
bell downstairs.

Q Now you know it, right?

A That's right, I do.

Q Now, when Vinnie spoke with you, when he said
he could use heroin -- is that correct?

A That's right.

Q And the next day you met this man, George, who
thought of Vinnie, is that correct?

A That's right.

Q Did you call Vinnie, call Vinnie up to say,
"I have a buy"?

A He has no phone.

Q Did you get in touch with Vinnie?

A I had seen him the night before. He says,
If you do get it, you come up to the house," and I went

up there.

Q And the next day you met George?

A That's right.

Q And that was a whole conversation with you and Vinnie: "If you get it, come up to the house"?

A When I spoke to him at the Centaur, yes.

Q And the next day you came up to his house, or the day after you came up to his house?

A A day or two later, I would say.

Q You didn't call?

A No, I just went up, because he says if I get it to come up. I had gotten it, and I went right up there.

Q Did he ask you for a specific amount?

A He had told me, "Whatever you are going to get, the guy would be satisfied."

Q If you had gotten a full kilo of heroin he would have taken it.

A He said he had the money on hand. That's right.

Q Did you agree on a price?

A Well, you know what a quarter is, so you take it from there.

Q And he said he was ready for anything?

1 mpa6

Stasi-cross

2 A That's what he told me.

3 Q And you came up to his house and you brought
4 the heroin, is that correct?

5 A That's what I did.

6 Q Pardon me?

7 A That's what I did.

8 Q And then you said he called up Ralph, went down-
9 stairs and called up Ralph?

10 A To the Holiday Inn next door, yes.

11 Q Did Ralph Birdie bring the money up to the apart-
12 ment?13 A I don't know where the money was. I am not
14 sure if he brought it or it was in the apartment.

15 Q Didn't you say Vinnie brought the money?

16 A I says Ralph, too.

17 Q Who paid you the money? Vinnie or Ralph?

18 A I don't know. I know I got paid.

Q Who handed you the money?

A I says I don't know. I don't know who paid

si, I call to your attention page 409
cimony. I believe you were questioned
ination on January 31st.

MR. ROSENBAUM: Reading from line 10, your

Honor, page 409:

Q "A Vinnie told Ralph Birdie what I brought. He said, 'That's good enough, we should keep them satisfied with the quarter.'

Q What happened after that?

A Well, they gave me \$7000.

Q Who gave you \$7000?

A Vinnie did."

A I remember that.

Q Pardon me?

A I remember that.

Q Vinnie gave it to you, now you remember?

A Yes, I do.

Q In other words --

A That's refreshing my memory.

Q Well, your memory on May 31st -- just a few days ago you recall distinctly on direct examination that Vinnie gave you \$7000?

A That's right.

Q Now you don't remember that, but that refreshes your recollection?

A That's refreshes my recollection.

Q On your only narcotics sale to Vinnie?

A That's right.

Q Do you recall in what denominations the bills were that he gave you?

A I couldn't tell you.

Q You don't remember?

A I don't think there was any small money there.

Q He gave you a brown paper bag?

A The money was -- the money was just in a -- you know, I counted it up and that was it. I got it in a bag.

Q You counted the money. You don't remember --

A It was 10s and 20s.

Q \$7000 in \$10 bills and --

A It could have been big money, too, I got paid \$7000.

Q You don't remember?

A I don't remember. I know I got paid \$7000. That's what I know.

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Q You testified that you were arrested on May 22nd, is that correct?

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A That's right.

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Q After your arrest the authorities gave back to you all your paraphernalia, is that correct?

7

A That's right.

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Q And you immediately went down to the Centaur?

10

A That's right.

11

Q To get a prostitute?

12

A He was sitting at the table. I called --

13

Q No, what was your purpose in going down to the Centaur?

14

A To do the same thing that I always do, meaning what I always do every day.

15

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Q What do you do every day?

17

A I go to different bars, look for different fellows, where they hanging out. If I were to get coke for them I would bring it to them. So that night --

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Q Just one moment.

21

A All right.

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23

Q Didn't you have a discussion with the authorities as to how to account for your time with that cardboard box?

24

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A Yes.

Q When you left your house or your girl-friend's house on Williamsbridge Road weren't you going to the Flaming Pit to deliver that box?

A I was.

Q What time of day were you arrested?

A I would say around 2:30.

Q What time of day were you expected at the Flaming Pit?

A Three o'clock.

Q What time of day were you released from Federal Plaza?

A I don't recall if it was the next day or just -- I was released that same night.

Q About what time?

A I would say maybe about 1 o'clock in the morning.

Q Wasn't there a discussion at Federal Plaza as to how you were going to account for your time, why you didn't show up at the Flaming Pit?

A I says I wouldn't know, I would take care of that, only that they were going to give me back the paraphernalia.

Q Just like that, that was the extent of the conversation?

1 A That's all I remember.

2 Q You don't recall whether or not they said, "We'll
3 work out an arrest with you"?

4 A I don't recall that.

5 Q You don't recall that you said, "I'll tell them
6 I was at my daughter"?

7 A I says I was at my daughter? I don't
8 follow that.

9 Q Did you tell them you would use as an excuse
10 for the lapse of time your daughter?

11 A Oh, I would say that, I would say I was at
12 my daughter's house, yes.

13 Q What excuse did you ultimately come up with
14 to cover for this lapse of time?

15 A Go with the paraphernalia, and that's it, I
16 would go down the Centaur.

17 Q You were supposed to meet somebody at the
18 Flaming Pit, right, at 3 o'clock?

19 A That's 3 o'clock. This is after that, when
20 they picked me up. That's the day after.

21 Q You were supposed to meet somebody at the
22 Flaming Pit on May 22nd at 3 o'clock?

23 A That's right.

24 Q You were in Police Headquarters until 1 a.m.
25

1 jha

Stasi-cross

858

2 on the 23rd? I meant to say Federal Plaza.

3 A I guess so. I say I'm not -- when it comes
4 to anything about that way -- I know it was after that
5 I got picked up, I went right down to Federal Plaza.

6 Q But there was a lapse of 10 hours from the
7 time that you were supposed to be at the Planing Pit
8 until the time you got out of Federal Plaza, is that
9 correct?

10 A That's right..

11 Q What was your excuse to Mr. Earp?

12 A Well, the next day I had met Gigi.

13 Q Pardon me?

14 A I had met Gigi the next day.

15 Q Weren't you supposed to tell them a story for
16 what you were doing for 10 hours?

17 A I did tell them a story.

18 Q You left Federal Plaza and you went down to
19 the Centaur Bar, is that correct?

20 A That's right.

21 Q For the purpose that you go there every day?

22 A Well, being that it was that late in the
23 morning, that would be almost my last stop. So
24 being it was 1 o'clock in the morning, I felt I was down
25 there, in that area, the first stop was the Centaur.

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Q Did you have a few drinks at the Centaur?

A I did.

Q Did you snort coke at the Centaur?

A Vinnie gave it to me. Yes, I did.

Q Vinnie gave you the coke?

A That's right, because he had a pouch.

Q Didn't you ask Vinnie if he could use heroin or coke?

A I had asked him about the sample that I had gave him of coke. That was the quarter that I had.

Q You asked him about the sample of coke?

A That I had gave him. He says he wasn't interested in that. He says he could do good with heroin, if I was to get it.

Q And at that point he gave you coke?

A Because he had a pouch, that's right. That's the snagging purpose. That's what I call it.

Q Did you pay him money for the coke?

A No.

Q Did he tell you he was interested in heroin?

A He did.

Q Had you already given him a sample of the coke?

A I did.

1 jha
2 Q When?

3 A I don't know when it was, but I gave him a sample
4 of the coke I had.

5 Q It is your testimony, just so I have it
6 clear, that Vinnie had only gotten the sample?

7 A That's right.

8 Q Do you recall being asked these questions on
9 May 29, 1973 --

10 MR. ROSENBAUM: Your Honor, I refer to
11 reel C-451. I don't know what exhibit that may be.
12 Page 32, your Honor.

13 MR. CURRAN: 3526A, your Honor.

14 THE COURT: What page?

15 MR. ROSENBAUM: 32, your Honor.

16 Q Where it says "Stasi" you are answering, you
17 are answering his question:

18 "He says, 'I'll see you tomorrow,' and he
19 called me today and he wanted me to meet him in the neigh-
20 borhood. He did not come around. So I says,
21 'Now let me go to the Bronx.'

22 "I went to the Flaming Pit. I figured let
23 me go get these keys so I could save a trip with going
24 back and forth, you know, to Harlem, to the Bronx. I
25 figured I'm up there now, let me go get this here, get

jha Stasi-cross 861

this here sample and have it ready for Vinnie for tonight."

A That's the sample of coke. That's what I'm talking about.

Q "Voice: You got the sample now.

"Stasi: No, I didn't get it, because you told me -- you told me not to go."

A I don't remember that, I don't recall that.

Q Let me show you this and ask you whether or not it refreshes your recollection.

MR. PHILLIPS: Your Honor, I object to this because I don't see how --

THE COURT: I am trying to find out -- go ahead.

MR. PHILLIPS: May we approach the side bar, because I am confused.

THE COURT: So am I. I will try to get unconfused.

(At the side bar.)

MR. PHILLIPS: I don't understand what the reference here is to.

THE COURT: I don't either. I cut back and I started reading the page before that and that is even worse.

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MR. ROSENBAUM: On trial, your Honor, he said that when he went down to the Centaur he had already given Vinnie the sample. Over here he says he had not as yet given Vinnie the sample, he was going down there for the purpose of giving Vinnie the sample of coke.

MR. PHILLIPS: It is sufficiently confusing that Mr. Rosenbaum should at least be required to lay some type of foundation to ask the witness whether he gave him the sample prior to his having been arrested or after his having been arrested and whether or not he gave him an additional sample of what he was talking about with respect to this transcript rather than reading this.

At the top of the page he is talking about Moe, talking to Moe.

MR. ROSENBAUM: Your Honor, I am trying to point up the inconsistency between his trial testimony, where he says that he had given Vinnie --

THE COURT: I understand what you are trying to do, but I am at a bit of a loss as to what he is talking about on page 32.

I am backed up to page 27. I am trying to find out what he is talking about. Needless to say, the voice, whoever that might be, nor Stasi, were too articulate as to what exactly they were talking about.

1 hp2

Stasi-cross

2 MR. ROSENBAUM: The only sample he ever gave,
3 your Honor, was coke. He never gave samples of heroin.

4 THE COURT: I want to find out. I am not going
5 to ask that question, but I want to find out what he is
6 talking about, if I can.

7 I finally figured out what I think is going on.
8 Immediately after the answer that you read the voice says,
9 "You got the sample now," and Stasi answers, "No, I didn't
10 get it because you told me -- you told me not to go."

11 MR. ROSENBAUM: Yes.

12 THE COURT: He talked about delivery of a sample
13 and this apparently has nothing to do with delivery of a
14 sample, because he didn't have it.

15 MR. ROSENBAUM: Judge, this is the second de-
16 briefing. On May 22nd he said he was supposed to meet
17 Vinnie tonight with the sample.

18 MR. PHILLIPS: But this is May 29th.

19 MR. ROSENBAUM: I am trying to get the May 22nd
20 debriefing. They tell him, "Don't go down there with the
21 sample," and that is why on May 29th this conversation takes
22 place, your Honor, because he did not go down there with a
23 sample that time.

24 MR. PHILLIPS: He never said he did go down there
25 with the sample on May 22nd.

1 hp3 Stasi-cross

2 MR. ROSENBAUM: No, no. He was supposed to go
3 down there on May 22nd.

4 MR. PHILLIPS: He did go down there on May 22nd,
5 but he didn't go down there with the sample. He had given
6 the sample before that.

7 MR. ROSENBAUM: But here he says he never gave
8 him the sample.

9 THE COURT: No, it doesn't say that at all.
10 It says he didn't give the sample on that night, which is an
11 entirely different beast.

12 You understand what I am saying? He could have
13 given the sample at some time prior to this and then come
14 up with a promise of another sample and never delivered it.
15 You see, this is not necessarily inconsistent with what he
16 has testified to.

17 MR. ROSENBAUM: But we are forgetting, your
18 Honor, on May 22nd he was supposed to go down with the
19 sample. He was supposed to meet Vinnie that night allegedly
20 with the sample. The police said, "Don't go down with
21 the sample." That is what he says on the debriefing.

22 On his trial testimony he said he gave Vinnie
23 the sample a few weeks earlier.

24 THE COURT: All right. That is not inconsistent.
25 There is no necessary inconsistency between the two of

1 hp4 Stasi-cross

2 them. In other words, he could have given a sample some
3 time prior to May 22nd and then have come along with a
4 second sample to be given on May 22nd or even on May 29th.
5 There is no necessary inconsistency.

6 You can ask him about whether he promised Winnie
7 a sample again and so on and so forth, you can develop an
8 inconsistency there possibly. You don't have a straight
9 out inconsistency here.

10 MR. ROSENBAUM: All right. At this point may
11 we just get a short recess? I can check my May 22nd papers.
12 It's five after eleven anyway.

13 THE COURT: It's not quite. How much more do
14 you have left?

15 MR. ROSENBAUM: Not too much more. Maybe ten
16 minutes more, Judge.

17 THE COURT: Maybe by that time Mrs. Rosner will
18 be back. We will take a break now.

19 What do you say?

20 MR. PHILLIPS: Fine with me.

21 THE COURT: You have no choice.

22 MR. PHILLIPS: That's right.

23 (In open court.)

24 THE COURT: Ladies and gentlemen, this morning
25 we are going to take an early break, about fifteen minutes.

1 hp5

Stasi-cross

2 (Jury left the courtroom.)

3 MR. ELLIS: Your Honor, before the break I would
4 like to call the Court's attention to the fact that
5 contraband publicity, for want of a better words, may have
6 come to the attention of the jury inadvertently, that is,
7 the news stories concerning the alleged attempt of a lawyer
8 in this case to fix a murder case in Brooklyn apparently
9 was not excised from the Daily News of January 28th or
10 29th.

11 The procedure I had been following with the marshals
12 was to examine the newspapers on my own and then examine
13 that which was clipped from those newspapers. You will
14 recall that on the 28th and 29th we did not sit due to the
15 illness of one of the defendants. I had been unable to
16 get the clippings of that day until this morning.

17 This morning I looked at the material that was
18 removed from the Daily News. The stories about that
19 incident were not included amongst the clippings. I have
20 asked for the intact newspapers of those days to verify that
21 in fact the stories were printed on January 28th and 29th
22 and when I see them I will have some more to say to the
23 Court, your Honor.

24 THE COURT: All right.

25 MR. CURRAN: Your Honor, in that regard I would

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Stasi-cross

point out it's my understanding that that story that Mr. Ellis is referring to appeared in the extra late edition of the Daily News only and that edition, as I understand it, is of extremely limited circulation.

THE COURT: I don't know about that. The edition of the News I am sure you have, don't you?

MR. ELLIS: We will have the edition of the News that the jury received.

THE COURT: That is the one we are interested in.

MR. ELLIS: Yes.

THE COURT: All right. Let's take the fifteen.

(Recess.)

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Stasi-cross

868

(Jury not present.)

THE COURT: Mr. Warner, do you have something to say?

MR. WARNER: Yes, your Honor.

In going over the transcript of yesterday's testimony, I noticed that in those portions where I played the tape it is not clear from reading the transcript precisely what portions of the tape I played, and I wondered, with your Honor's permission, if I might just state for the record exactly what was played in line with the page numbers and line numbers of the transcript, so it will be clear.

THE COURT: Unfortunately, I don't have the transcript. If you want to make the record, go ahead.

MR. WARNER: Page 786 of the transcript, the trial transcript, it refers to the tapes having been played, and the taped portion that was played was a transcript prepared of Casette 515-B, and it was played from page 16 of that transcript, the third line, from and including the third line to and including the eleventh line.

Then, on page 788 of the trial transcript, where there is a reference to -- I am sorry -- page 789 of the trial transcript, where there is a reference to the

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Stasi-cross

tape being played, what was played there came from a transcript of Casette No. 566, at page 7, line 15, of that transcript, to page 8, line 3, of that transcript.

MR. FISHER: If your Honor please, I anticipate that the present examiner will terminate soon and that the government will initiate redirect examination.

MR. ROSENBAUM: I won't terminate soon. My examination will terminate soon.

MR. FISHER: Anything for a mistrial, Judge.

THE COURT: It's a tough way of getting it.

MR. FISHER: If your Honor please, at this time I would ask the Court for an order precluding the Government from posing any questions on redirect, in view of the fact that it has spoken with the witness presently under questioning.

THE COURT: All right. The request is denied.

All right. Bring back the jury.

(Jury in box; witness on the stand.)

CROSS EXAMINATION CONTINUED

BY MR. ROSENBAUM:

THE COURT: All right, counsel.

MR. ROSENBAUM: Thank you, your Honor.

Q Mr. Stasi, do you know a girl by the name of Laurie?

pp3

Stasi-cross

A Yes; I do.

Q And who is Laurie?

MR. PHILLIPS: Objection as irrelevant.

MR. ROSENBAUM: Subject to connection.

THE COURT: No. I will take it. Let's find out whether it is relevant.

A Yes; I do.

Q Who is Laurie?

A She works in the Centaur.

Q And in what capacity does she work there?

A Sometimes she's a hatcheck girl, and sometimes she serves on the tables.

Q Do you recall an occasion when you took her home?

MR. PHILLIPS: Objection to the form of the question.

THE COURT: No. I will permit it.

A Yes; I do.

Q And at that time was there an altercation that took place between you and Winnie?

MR. PHILLIPS: Objection.

THE COURT: Objection sustained.

Q What happened when you took her home?

MR. PHILLIPS: Objection.

THE COURT: Still sustained.

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Stasi-cross

Q Was Laurie Vinnie's girl friend?

A I think so.

Q Did you see them going out together?

A She went out not only with Vinnie. She went out with other people, too.

Q But she was Vinnie's girl friend; right?

A I says, I would think so.

Q And did you have an argument at one time with Vinnie with reference to Laurie?

MR. PHILLIPS: Objection.

THE COURT: No. I will permit it.

A I never --

Q Pardon me?

A I never did.

Q Did Vinnie ever tell you to stay away from Laurie?

MR. PHILLIPS: Objection.

THE COURT: I think he answered that, didn't he?

A I never did.

THE COURT: I am sorry. I didn't hear the answer.

THE WITNESS: I never did.

Q Do you recall the night that this took place, what you said to Laurie?

MR. PHILLIPS: Objection.

pp5

Stasi-cross

THE COURT: I will sustain that.

Q What did you say to Laurie that night and what did she say to you?

MR. PHILLIPS: Objection.

THE COURT: Sustained.

Q Mr. Stasi, when you told the arresting officers about the two occasions that you actually sold narcotics to Vinnie and you said that you sold on the first occasion two ounces of heroin, that was not the truth, was it?

A It wasn't.

Q That was not the truth?

A I had recalled then that it was a quarter, what I said before.

Q But you didn't correct your testimony to them at that time?

MR. PHILLIPS: Objection.

THE COURT: I will sustain it. Go ahead.

Q But initially the first reaction to the question by the authorities was a lie to them; is that correct?

MR. PHILLIPS: Objection.

THE COURT: It's argumentative.

Q Was the first question when they asked you with reference to the sale of heroin, the answer you gave them, was that an accurate answer?

pp6

Stasi-cross

A I might have been confused at the time.

MR. ROSENBAUM: I have no further questions,
your Honor.

THE COURT: Anyone else?

Do you have any redirect, Mr. Phillips?

MR. PHILLIPS: Yes, your Honor.

REDIRECT EXAMINATION

BY MR. PHILLIPS:

Q Mr. Stasi, did Vinnie ever tell you what his last
name was?

A No.

Q Did he ever tell you, "My name is Vinnie D'Amico"?

MR. ROSENBAUM: Objection, your Honor. The
question was asked and answered.

THE COURT: He just said he never told him what
his last name was.

Q Did he ever say, "My name is Vinnie Rizzo"?

MR. ROSENBAUM: Objection, your Honor.

THE COURT: He never told him last name.

MR. PHILLIPS: Your Honor, I think I am entitled
to ask the questions, in view of the cross-examination.

THE COURT: It is quite obvious he didn't tell
him what his last name was. Whatever his last name might
have been, he didn't tell him.

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2 Q Did he tell you anything beyond the fact that
3 "Rizzo" was on the box downstairs where he lived?

4 MR. ROSENBAUM: Objection, your Honor. There
5 is no such testimony.

6 THE COURT: No. I will permit it.

7 A When I went to the apartment, I knew it was
8 Rizzo.

9 Q Did he tell you that the name "Rizzo" would
10 appear on the box downstairs?

11 A That's right.

12 Q Had you ever heard the name "Rizzo" prior to that
13 time?

14 A No.

15 Q Mr. Rosenbaum asked you on cross-examination
16 about the initial sale that you made to Vinnie. Did you
17 tell Agent Torrey Shutes that that was a quarter ki of
18 heroin?

19 A I did.

20 MR. ROSENBAUM: Objection, your Honor.

21 THE COURT: No. I will permit it.

22 A (Continuing) I did.

23 Q You said on cross-examination this morning that
24 one of the reasons this morning for going to the Centaur
25 was that Vinnie sold pouches. Pouches of what, Mr.

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Stasi-redirect

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Stasi?

A Cocaine.

Q And did you purchase pouches of cocaine from Vinnie?

A Before that, yes.

Q Before what?

A Well, I would say numerous times.

Q Prior to the quarter ki of heroin that you sold to Vinnie that you got from George Toutoian, had you ever sold narcotics before, in your life?

A No.

Q And was it after that that you made the two sales to Allie Boy or Al Cassella?

A That's right.

Q Yesterday you testified on cross-examination with respect to Finnegan. Did you intentionally cover up the fact that Finnegan was involved in mixing narcotics?

A I was covering up.

Q That was when you were talking with the detectives?

A Yes.

Q Now, you testified on cross-examination yesterday that Inglese -- Gigi, rather, had no idea that you were dealing with George Toitoian. Did he ever tell you he

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2 heard you were fooling around with somebody and told you to
3 stop it?

4 MRS. ROSNER: Objection to form, most respect-
5 fully, your Honor. Leading.

6 THE COURT: I will permit it. Go ahead.

7 A He had says to me, "I hear you are fooling
8 around."

9 I says to him, "I'm not."

10 He says, "If I hear you're fooling around, I
11 can't use you."

12 Q The arrest that took place at the Beef East:
13 do you recall that?

14 A Yes; I do.

15 Q Did that occur before the arrest where you were
16 taken down to Frank Rogers' office?

17 A Before.

18 Q The buying of the paraphernalia: was that you
19 or Joe Crow who purchased the paraphernalia in and around
20 Bloomfield, New Jersey?

21 A Joe Crow went around to these different places.
22 I stood in the car.

23 Q Mr. Stasi, with respect to when you have been
24 in custody for the last year, when you were arrested and
25 taken to Frank Rogers' office, were you then allowed to

1 leave that evening? Is that correct?

2 A That's right.

3 Q And between that time and when you went to Riker's
4 Island, were you in any type of custody?

5 A No; I wasn't.

6 Q What was the reason for letting you off or giving
7 back to you the box of paraphernalia and mannite?

8 MR. ELLIS: Objection, your Honor.

9 THE COURT: Sustained.

10 Q Was it ever explained to you why the box of
11 paraphernalia and mannite was being returned to you?

12 A Well, they had says, "It's best that you take" ---

13 MR. ELLIS: Same objection.

14 THE COURT: Overruled.

15 MRS. WISNER: Objection on the grounds of hear-
16 say.

17 THE COURT. No; it is not.

18 Q Proceed, Mr. Stasi.

19 A Mr. Rogers and the officers that were present
20 had says to me, "It's best -- which way would you want to
21 leave?"

22 I says, "It's best that I leave with the
23 paraphernalia. This way nobody would suspect anything."
24 And they left it in my -- they left it in the trunk of my
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Stasi-redirect

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car.

Q And the following day did you have occasion to
see Gigi?

A I did.

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2 Q And did you have a discussion as to your
3 reason for not showing up at the Flaming Pit?

4 A He had asked -- he had asked me. He came
5 into the barbershop while I was getting a shave. So
6 he says he wanted to talk to me. I says, "All right,
7 let me finish the shave."

8 We went outside. My car was doubleparked.
9 He says, "Is the paraphernalia within reach?"

10 I says, "Yes."

11 He says, "Didn't you intend to give Jimmy the
12 stuff this evening?"

13 I says, "Yes, I am supposed to meet him at
14 3 o'clock."

15 Q I said the following day did you see Gigi or
16 Jimmy Wyatt Earp?

17 MR. FISHER: I move to strike the previous
18 answer as not responsive.

19 THE COURT: Overruled.

20 A Yes, I seen him near the barbershop.

21 Q And who was with him?

22 A Gigi Inglese.

23 Q And did you have a conversation at that time?

24 A He said if I had the paraphernalia within reach.

25 Q And what did you tell him?

1 A I says yes.

2 Q Weren't you supposed to show up at the Flaming
3 Pit the day before?

4 MRS. ROSNER: I am going to object to the
5 leading, your Honor.

6 THE COURT: No, go ahead.

7 A That's right.

8 Q And did you have a conversation about your
9 failure to show up at the Flaming Pit the day before?

10 A Yes.

11 Q And what was the conversation?

12 A Well, I had told him that I was there and
13 Vinnie -- Jimmy Wyatt Earp wasn't there. He says to
14 me, "You were supposed to meet Jimmy at the Flaming Pit."

15 I says, "Yes." I says, "I went there and
16 he wasn't there."

17 Q Now, between the time that you left Frank
18 Pogers' office and the time that you went to Rikers Island
19 did you snort cocaine?

20 A I did.

21 Q What was the date that you went to Rikers Island,
22 do you recall, to serve that sentence?

23 A I think it was June the 8th.

24 Q Could it have been June the 6th?

MR. ELLIS: Objection.

THE COURT: No, I will permit it.

A It could have been.

Q It could have been either June the 6th or
June the 8th?

A Yes.

Q In any event you spent how much time in Rikers
Island?

A I would say 35 days.

Q Did you snort cocaine while you were in Rikers
Island?

A No, sir.

Q And you got out of Rikers Island on what
date?

A July 10th.

Q And did you go into some type of custody at
that time?

A Yes, I did.

Q Was that with the detectives?

A That's right.

Q And you stayed with them for a period of time?

A Yes, I did.

Q And while you were with the detectives in that
type of custody, did you snort cocaine?

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2 A No, sir.

3 Q Then did there come a time when you appeared
4 before a federal grand jury?

5 A Yes.

6 Q Were you still in the custody of the detec-
7 tives at that time?

8 A Yes.

9 Q And after you appeared before the federal
10 grand jury, did you then go into federal protective cus-
11 tody?

12 A Yes, I did.

13 Q Is that the same day that you appeared before
14 the federal grand jury?

15 A Yes, sir.

16 Q And have you been in federal protective custody
17 ever since then?

18 A That's right.

19 Q And since you have gone into federal protec-
20 tive custody have you snorted cocaine?

21 A No, sir.

22 Q When you mixed heroin at the direction of
23 either Gigi or Joe Crow, were you high on cocaine?

24 A No, sir.

25 Q Who introduced you to snorting cocaine?

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882

A Gigi.

Q Since you have been in federal protective custody, have you seen Lieutenant Whalen, Sergeant O'Boyle or any of the other detectives who interviewed you?

A Yes.

Q Where did you see them?

A Up in your office.

Q Is that recently?

A Yes.

Q Now, when in relation to when you appeared before the federal grand jury did you first meet me?

A The first time when? I don't -- would you --

Q In relation to when you appeared before the federal grand jury?

A When I was in custody of the SIU.

Q And how long before you appeared before the federal grand jury did you first meet me?

A I would say maybe a couple of weeks before that.

Q And did you first meet Agent Torrey Shutes before me or after me?

A After.

Q He is a federal agent?

A Yes, he is.

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883

Q Was I the first person that you met from the federal government?

A Yes, you were with two other -- two other -- two other people. I don't know who they were.

Q How about an assistant United States attorney by the name of Feffer?

A Oh, yes.

Q How many times did you see him?

A Once, at a motel.

Q Did you see him before you met me?

A Yes, I did.

Q Did you discuss this case with him?

A No, sir.

Q Did you discuss another case with him?

A Yes, I did.

Q Was he the first person you met from the federal government?

A That's right.

Q The statements that you made to Sergeant O'Boyle, Lieutenant Whalen and all of the detectives that have been mentioned, were they made under oath?

A No.

Q Did any of the detectives or Sergeant O'Boyle or Lieutenant Whalen ever tell you to tell the truth?

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2 A They did.

3 Q Specifically, did they tell you on July 14,
4 1973, did Sergeant O'Boyle tell you on that date,
5 "Frank, I have said this before and I repeat it again:
6 I don't want you or Jerry doesn't want you to say anything
7 that's not true"?

8 A They did.

9 THE COURT: Where?

10 MR. PHILLIPS: Page 78, your Honor, of
11 reel C-559, Government Exhibit 3521A, on page 78.

12 Q Did Sergeant O'Boyle further say, "Only
13 tell us the truth. If you feel that -- that by telling
14 us a lie it might help you you are absolutely wrong.
15 That won't help you at all"?

16 Did Sergeant O'Boyle tell you that?

17 A Yes, he did.

18 Q Did they tell you that a number of times?

19 A They did.

20 MR. ELLIS: Your Honor, I object to this
21 entire line of questioning. It is purely self-serving.

22 THE COURT: No, I'll permit it.

23 Q Did they ever tell you that they wanted you
24 to lie?

25 A No.

2 MR. ELLIS: What was that last answer,
3 your Honor?

4 THE COURT: "no."

5 Q Mr. Stasi, you were asked on cross examination
6 by Mr. Siegal regarding whether or not you used the
7 word "goods" or whether Gigi used the word "goods"
8 or used the word "something" when he asked Carmine Tramunti
9 for money at Lo Piccolo on that occasion? Which
10 word did he use?

11 A He used "goods."

12 Q Is there any question in your mind about
13 that?

14 A That's right.

15 Q What was your reason for telling the detec-
16 tives that he only used the word "something"?

17 MR. FISHER: Objection.

18 MR. SIEGAL: Objection.

19 THE COURT: No, I will permit it.

20 A I was afraid of Carmine Tramunti at the time.

21 MR. SIEGAL: If your Honor please, I repeat
22 my motion made the other day. I move to withdraw a juror
23 upon the ground that the answer elicited is prejudicial
24 to the rights of my client to obtain a fair trial.

25 MR. FISHER: I ask for a severance, if

1 mpa

Stasi-redirect

886

2 your Honor please.

3 THE COURT: All right. Both motions are
4 denied.

5 Q Mr. Stasi, did you thereafter decide to tell
6 the truth?

7 A Yes, I did.

8 Q Could you tell us why?

9 MR. FISHER: Objection, if your Honor
10 please.

11 THE COURT: I will sustain it.

12 Q Would you tell us the basis for your deciding
13 to tell the truth?

14 MR. FISHER: Objection.

15 MRS. ROSNER: It's the same question.

16 THE COURT: No, it's a different question.

17 MR. FISHER: I object to the different
18 question.

19 THE COURT: All right. Overruled. I
20 will permit it.

21 Q Would you answer it?

22 A I was telling the truth.

23 Q Would you tell us the basis for your then
24 deciding to tell the detectives the truth?

25 MR. ELLIS: Objection.

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2 THE COURT: Yes, I understand. The
3 objection is overruled.

4 A I would be helping myself.

5 Q Did there come a time that you decided that
6 you could not fool the detectives any longer?

7 MR. FISHER: Objection.

8 MR. ELLIS: Objection.

9 MR. SIEGAL: Objection to that.

10 MR. FISHER: It assumes a fact not in evi-
11 dence.

12 THE COURT: I am aware of that. I will
13 sustain it.

14 Q Mr. Stasi, you were asked on cross examination
15 about your testimony before the federal grand jury as
16 to the accuracy of your statement that in July of 1972
17 you mixed heroin with Joe Crow at his place at Bloom-
18 field, New Jersey, do you recall that?

19 A Yes, I do.

20 Q And was that statement accurate?

21 A No, because the I didn't remember the dates,
22 the dates, the months and the years. I was interviewed
23 by Torrey Shutes, and in talking to me he would feel
24 that that's around the --

25 MRS. ROSNER: Objection to what he would feel

and move to strike.

THE COURT: No. I will let it stand.
We don't want to know what Mr. Shutes felt, however.

Q Mr. Stasi, was everything about that statement that you made accurate except the date of July, 1972?

A Only the dates and the year.

Q Were you unsure of the date?

A Yes.

MR. ELLIS: Objection.

THE COURT: No, I will permit it.

A Yes.

Q And would you explain to the jury how the dates appeared in Torrey Shutes' report?

MR. ELLIS: Objection.

MR. FISHER: If your Honor please, this witness may be incompetent to answer that. There's no basis --

THE COURT: I am having a little problem with it right now.

I think you ought to rephrase that, Mr. Phillips.

MR. PHILLIPS: All right, I will go back, your Honor.

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Stasi-redirect

889

Q Mr. Stasi, you were interviewed by Torrey Shutes after you met me, is that correct?

A That's right.

Q And that interview took place over a period of several days?

A I would say so.

Q And was Sergeant O'Boyle present during most or all of the interviews?

A I would say so.

Q And were you and Sergeant O'Boyle and Torrey Shutes trying to establish when certain things occurred?

A That's right.

Q And could you tell us how you went about that

A Well, I was trying to tell them about the mixing sessions. He said, "Could you be" --

MRS. ROSNER: I am going to object to what he said. It's hearsay as to the defendants.

THE COURT: I know, but I will permit it.

A He had asked me about the mixing sessions.

Q Who is "he"?

A Torrey Shutes and Sergeant O'Boyle. And I says I know I had about eight mixing sessions.

They were trying to tell me what year, what date, and I didn't remember, so they had says, going

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2 around the way I was talking about it, they, you know,
3 they figured, would it be, this would be a date. I
4 says, "Well, if you think that would be a right date,
5 we will let it stay at that."

jhat5a 6 Q Then did there come a time after you appeared
7 before the grand jury when you realized that the
8 dates that Torrey Shutes had given were wrong?

9 A Yes.

10 Q When did that come about?

11 A When going over my testimony.

12 Q With me?

13 A With you.

14 Q You were asked on cross examination by Mrs.
15 Rosner regarding the conversation that you had with
16 Gigi and Carmine Tramunti with respect to getting
17 Moe Lentini out on bail and at that time you described,
18 as Mrs. Rosner pointed out, you described the person in
19 addition to yourself and Carmine being there as short and
20 stubby. At that time were you still covering up for
21 Gigi and Carmine Tramunti?

22 MRS. ROSNER: Objection, your Honor.

23 THE COURT: Let me have the question read
24 back, please.

25 (Question read.)

THE COURT: I will permit it. Go ahead.

A I was.

MR. PHILLIPS: Your Honor, at this point I would like to approach the bench about the next question I intend to ask.

THE COURT: Sure. Come on up.

(At the side bar.)

MR. PHILLIPS: Your Honor, it came out on cross examination about Gigi Inglese's incarceration. I intend, in order to put into focus, which is the only way this witness can with respect to the conversation that occurred that I just asked him about regarding Hoe getting out on bail, I intend to ask him about the date of April 24th and how he remembers it and when in relation to that date this conversation occurred.

THE COURT: What is April 24th.

MR. PHILLIPS: That is the date that Inglese got out of jail.

MRS. ROSNER: Could we hear the proposed question rather than why Mr. Phillips is asking it?

THE COURT: Yes.

MR. PHILLIPS: I am going to ask him: "Does the date April 24th mean anything to you?"

I suspect his answer is going to be, "Yes, it

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892

does."

"How does it mean anything to you?"

His answer is going to be that that was the date that Gigi got out of jail and it was circled on the calendar up at Lo Piccolo and that is how he remembers it.

I am going to ask him: "Did Gigi get out of jail on or about that date?" and then I am going to ask him when in relation to that date did the conversation occur about Moe Lentini with Carmine Tramunti and Gigi.

MRS. ROSNER: Excuse me just a moment, your Honor.

(Discussion off the record.)

MRS. ROSNER: Your Honor, my recollection of the testimony, as refreshed by Mr. Epstein, is that on direct examination by Mr. Phillips he fixed this conversation as having occurred three months before Mr. Inglese got out of jail.

Now, all Mr. Phillips is attempting to do is not explain some matter elicited on cross, but change the witness' testimony to put the event after the time he got out of jail. He just wants to impeach his own witness.

In other words, nothing has happened in the course of the cross that justifies the government in

going back to this matter. He is just trying to change the state of the record.

MR. PHILLIPS: I would have done this on direct examination, but your Honor directed me not to make any reference to it. Reference came out on cross examination to it and that is why I think that I am entitled now to be able to go into it.

MRS. ROSNER: The reference that came out on cross does not in any way create a need for the government to go back to this. It will only compound what has already been prejudice to the defendant.

THE COURT: No, I don't think so.

You can do it.

(In open court.)

BY MR. PHILLIPS:

Q Mr. Stasi, does the date April 24, 1973 mean anything to you?

A Yes.

Q What does it mean to you?

A It got put on the wall. There was a calendar. They specified that it's when Gigi would be out.

Q Out of jail?

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2 A Out of jail, yes.

3 Q Which wall or which calendar was this?

4 A As you come into the club, in the door,
5 it would be on the left-hand side.

6 Q Are you talking about Lo Piccolo or the
7 Beach Rose Social Club?

8 A Lo Piccolo.

9 Q Did Gigi get out of jail on or about that
10 date that was circled?

11 A Yes.

12 Q When in relation to that date of Gigi getting
13 out of jail did the conversation occur with Carmine
14 Tramunti and Gigi involving Moe getting out on bail?

15 A I would say about a week or two weeks later.

16 Q In addition to the individuals that you have
17 mentioned in this case, did the detectives question you
18 about other individuals that they suspected were
19 involved in narcotics?

20 MR. FISHER: Objection, your Honor.

21 MR. ELLIS: Objection.

22 MRS. ROSNER: Objection, your Honor.

23 THE COURT: Yes. I will sustain it.

24 Q You testified on cross examination that it
25 was approximately \$40,000 you owed, is that correct?

2 A That's right.

3 Q Did you owe this to banks, lending institutions,
4 or to whom?

5 MRS. ROSNER: Objection.

6 MR. PHILLIPS: This was brought out --

7 THE COURT: I will permit it.

8 A Gambling debts, shylocks.

9 Q To whom was it owed, what types of individuals?

10 MRS. ROSNER: Objection to the form,
11 your Honor.

12 THE COURT: The form is bad.

13 Q Not the names of the people, Mr. Stasi, but
14 to whom was the money owed?

15 THE COURT: He just said gambling and shy-
16 locks.

17 Is there anything else besides gambling and
18 shylocks?

19 THE WITNESS: Some private loaners, private
20 people, private loaners.

21 Q How long had you owed this amount of money?

22 A I would say about three years.

23 Q Were you worried about this debt and not
24 being able to pay it?

25 MR. ELLIS: Objection, your Honor.

1 jha THE COURT: I will permit it.

2 A I wasn't worried.

3 Q Could you tell us why you were not worried
4 about this debt?

5 THE COURT: He wasn't worried. I won't
6 permit it to go any further.

7 Q Do you recall yesterday, Mr. Stasi, that Mr.
8 Ellis, who represents Mr. Mamone, asking you about
9 how Gigi called you to the side in the club and away
10 from the other people when he wanted to talk to you about
11 mixing sessions?

12 A Yes.

13 Q Did you ever see Gigi talk to Butch Mamone on
14 the side and away from the rest of the people in the
15 club?

16 MR. ELLIS: Objection, your Honor, improper
17 redirect.

18 THE COURT: No, I will permit it. Go
19 ahead.

20 A He wouldn't call like he would call me.
21 He happened to be in a huddle with him on numerous
22 occasions.

23 Q With respect to Joe Red, Mr. Stasi, have you
24 recalled at any time that he ever had another nickname?
25

1 A Yes.

2 Q What was the other nickname?

3 A Joe D.

4 Q When did you recall that he ever had such a
5 name?

6 A When I was interviewed some Sunday. I don't
7 recall if it was last Sunday.

8 Q When you were interviewed, did you say?

9 A Meaning when I was talking with you, preparing
10 for this here trial.

11 Q And what did you recall at that time?

12 A That the name was Joe D.

13 Q Have you ever discussed the facts of this
14 case or your testimony with John Barnaba?

15 A No, sir.

16 MR. PHILLIPS: Your Honor, I have no
17 further questions, but I would like to approach the
18 side bar on one matter.

19 THE COURT: All right.

20 MR. PHILLIPS: I think perhaps Mr. Lopez
21 and Mr. Siegal and Mrs. Rosner ought to be present.

22 (At the side bar.)

23 MR. PHILLIPS: Your Honor, I make reference
24 to the question that I asked a minute ago regarding whe-
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ther the detectives had asked Stasi about any other people they suspected of being involved in narcotics trafficking. My basis for asking that question was that obviously defense counsel are going to argue that this witness had a motive to put these people in and the government's position is that the witness had no motive to put these people in, he could just as well have put other people in that the detectives asked him about.

I submit it is relevant redirect examination which goes to this witness' motive for testifying against these people, the fact that he did not tell the detectives about other individuals that they were asking about that they suspected were involved in drug trafficking.

THE COURT: No. Same ruling.

(In open court.)

MR. PHILLIPS: Your Honor, I have no further questions.

THE COURT: All right.

PECROSS EXAMINATION

BY MR. SIEGAL:

Q Just one question, Mr. Stasi. Did it take a promise of a pot of gold and an airline ticket to get you to tell the truth in this case?

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Stasi-recross

899

2 A No, it did not.

3 MR. SIEGAL: Thank you. No further
4 questions.

5 MRS. ROSNER: I have one or two, your
6 Honor.

7 RECROSS EXAMINATION

8 BY MRS. ROSNER:

9 Q Mr. Stasi, last night did you have occasion
10 to speak with anyone connected with the United States
11 Attorney's Office?

12 A I spoke to Mr. Phillips.

13 Q And did you discuss with Mr. Phillips last
14 night what questions he was going to ask you this
15 morning?

16 A He asked me questions and I answered them.

17 Q How long were you with Mr. Phillips, Mr. Stasi?

18 A Torrey Shutes was there also. In the pre-
19 sence of Torrey Shutes and --

20 Q I am sorry. You might have misunderstood
21 my question. I asked how long were you with Mr.
22 Phillips?

23 A Oh, I'm sorry. I would say about three-
24 quarters of an hour.

25 Q And how many times did you repeat the process

of him asking you questions and you answering them?

A I answered them.

Q How many times?

A I would say one, the question that he had asked me, that I was asked now.

Q Maybe more?

A I would say once?

Q Maybe more?

A I would say once.

MR. PHILLIPS: Objection as repetitious.
It has been asked and answered.

THE COURT: It is repetitious.

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Stasi-recross

901

Q Mr. Phillips asked you whether you had ever sold narcotics in your life prior to the sales that you have testified about here. Do you remember that?

MR. PHILLIPS: Objection.

MRS. ROSNER: This was on the government's redirect, your Honor.

MR. PHILLIPS: It wasn't that broad.

THE COURT: I believe it was prior to the sales -- let me check my notes.

MRS. ROSNER: I will reframe my question, your Honor.

Q I think it was specifically prior to the sales to Mr. Rizzo from George Toutoian that you testified about had you ever sold narcotics in your life. You remember Mr. Phillips asking you that?

A Yes, I do.

Q And your answer was what?

A I never did.

Q Do you know a person or did you ever know a person named Gabby?

A That's my brother-in-law.

Q He was your brother-in-law, isn't that right?

A That's right.

Q Was there a time when you lived on 114th Street

1 hp2 Stasi-recross
2 between First and Second Avenue?

3 A Never did.

4 Q Before moving to the Bronx what was your address?

5 A I lived at 120th Street and Pleasant Avenue..

6 Q How long did you live there?

7 A I would say a long time.

8 Q How long? 30 years?

9 A My father had a grocery store 117th Street and
10 Pleasant Avenue. I could say practically all my life.

11 Q At least 30 years?

12 A I would say.

13 Q And during that period of time, Mr. Stasi, isn't
14 it a fact that Gabby and you were partners in a narcotics
15 business?

16 A Never.

17 Q Isn't it a fact that Gabby introduced you to the
18 use of cocaine?

19 A Never did. I never did at the time.

20 Q To your knowledge, your brother-in-law Gabby was
21 a junk dealer, wasn't he, Mr. Stasi?

22 A That's what I heard.

23 Q You didn't know that from your own observations?

24 A I didn't know.

25 Q You didn't know that from your own dealings with

1 hp3 Stasi-recross

2 him?

3 A I never had dealings with him. It's none of my
4 business what he was doing. I worked.

5 Q You described the conversation between yourself
6 and Mr. Inglese where you say he heard that you had been
7 buying narcotics from George Toutoian. Do you remember
8 Mr. Phillips asking you about that?

9 A That's right.

10 Q You told the jury that Mr. Inglese said, "If I
11 hear you're fooling around I can't use you." You rememb-
12 er that?

13 A That's right.

14 Q Isn't it a fact that he said, "If I hear you're
15 fooling around I'm not using you at the club any more"?

16 A I don't remember that.

17 Q Didn't you just leave off the last part of the
18 sentence, Mr. Stasi?

19 A I did not.

20 MRS. ROSNER: I have no other questions, your
21 Honor.

22 THE COURT: All right.

23 REXCROSS EXAMINATION

24 BY MR. FISHER:

25 Q Mr. Stasi, Mr. Phillips asked you questions

1 hp4 Stasi-recross

2 regarding the testimony you gave in the grand jury about
3 dates. Do you recall that?

4 A That's right.

5 Q I believe you testified just a few minutes ago
6 that when you met with Agent Torrey Shutes --

7 A That's right.

8 Q -- they suggested dates to you and you agreed,
9 is that right?

10 A I says if they feel that's the way it is, then
11 I said probably that would be it then.

12 Q What happened, wasn't it, was that one or the
13 other of the agents would say, "This must have happened
14 on such-and-such a date," and you agreed, isn't that right?

15 A They didn't put it that way.

16 Q In any event, in the grand jury you agreed that
17 those events occurred on those dates, isn't that right?

18 MR. PHILLIPS: Objection to the form of the
19 question, your Honor.

20 THE COURT: No, I will permit it.

21 A What's that?

22 Q In the grand jury under oath you agreed that
23 those events occurred on those dates, is that right?

24 A That's what I said.

25 Q And just recently when Mr. Phillips suggested to

1 hp5 Stasi-recross

2 you that perhaps the events did not occur on those dates
3 you agreed with him, is that right?

4 MR. PHILLIPS: Objection.

5 THE COURT: Sustained.

6 Q You are trying hard to satisfy Mr. Phillips too,
7 isn't that right?

8 A I'm satisfying myself.

9 Q By satisfying him, Mr. Phillips?

10 A Myself.

11 Q You told us just recently again that the reason
12 that you told agents of law-enforcement that Finnegan never
13 mixed on July 10th was because you were trying to protect
14 him, is that right?

15 A That's right.

16 Q Is that why at that same instant in time, sir,
17 you told the agents that you had heard that Finnegan mixed
18 narcotics?

19 MR. PHILLIPS: Objection, your Honor.

20 THE COURT: I think we have been through this
21 already.

22 MR. FISHER: It was brought out on redirect, your
23 Honor.

24 MR. PHILLIPS: Not this part, your Honor.

25 MR. FISHER: No, that part he left out. I admit

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Stasi-recross

2 that.

3 THE COURT: We are aware of that.

4 MR. FISHER: No further questions.

5 THE COURT: All right. Is there anybody else
6 who wishes to examine?

7 All right. Mr. Stasi, step down, please.

8 (Witness excused.)

9 THE COURT: Do you have your next witness?

10 MR. PHILLIPS: The government calls Detective
11 Frank Dabbiero.

12 MR. CURLEY: Your Honor, before the next witness
13 testifies may we approach the bench?

14 THE COURT: Sure.

15 (At the side bar.)

16 MR. CURLEY: Your Honor, this is in reference
17 to the problem I mentioned yesterday evening about the
18 identification issue.
19 Mr. Phillips and I have discussed it and I
20 believe he has a stipulation which he is willing to state
21 to the jury. I would like to do it at this time, before
22 we conclude the testimony technically as to Mr. Stasi.

23 MR. PHILLIPS: That is satisfactory. I will
24 state the stipulation now and then repeat it to the jury,
25 if that is satisfactory to Mr. Curley, that is, that the

1 hp7

Stasi-recross

2 witness Frank Stasi was shown certain photographs, one of
3 which was a photograph of the defendant Marchese, approxi-
4 mately a month ago and was unable to pick out Marchese
5 from the photographs. The same photographs were shown
6 him approximately two weeks after that, at which time he
7 did pick out the photograph of Marchese.

8 MR. CURLEY: Do you intend to mark that photo-
9 graph as a government exhibit? If not, I would like it
10 marked Defendant Marchese's Exhibit A, or whatever number
11 is appropriate.

12 MR. PHILLIPS: All right. We will have it
13 marked.

14 THE COURT: Do you have it?

15 MR. PHILLIPS: Yes.

16 MR. CURLEY: Do you want to mark it with a
17 government number?

18 MR. PHILLIPS: We will mark it with a govern-
19 ment number, sure.

20 (In open court.)

21 THE COURT: Ladies and gentlemen, you are about
22 to hear a stipulation. Let me tell you what a stipulation
23 is before you hear it. That is where the attorneys
24 for both sides agree that a certain fact occurred.
25 The simplest way of getting it across to you is that

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2 they stipulate that in fact certain things happened.

3 Do you understand that? I hope you do.

2 4 MR. PHILLIPS: If it please the Court, ladies
5 and gnetlemen of the jury, it is stipulated by and between
6 the government and the defendant Joseph Marchese the
7 following facts:

8 Approximately one month ago the witness Frank
9 Stasi was shown seven photographs, one photograph of which
10 was that of the defendant Mr. Marchese, and he was asked
11 to identify the individuals in the photographs. At that
12 time he was unable to identify the photograph of Marchese
13 as being Joe Cab.

14 Approximately two weeks later he was shown the
15 same seven photographs and asked to identify Joe Cab out
16 of the photographs again. At this time he did identify
17 the photograph of the defendant Joseph Marchese as being
18 Joe Cab.

19 The government calls Detective --

20 THE COURT: Hold on. Do you have the photograph
21 in question?

22 MR. PHILLIPS: Yes, we do, your Honor.

23 THE COURT: All right. I don't know what the
24 next exhibit number is.

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25 (Government's Exhibit 22 marked for
identification.)

1 hp9

2 THE COURT: Mr. Curley, do you want to see it?

3 MR. CURLEY: I have seen it.

4 THE COURT: You have seen it?

5 MR. CURLEY: Yes.

6 THE COURT: Take another look.

7 All right. That is just marked for identifica-
8 tion.

9 F R A N K D A B B I E R O, called as a witness on
10 behalf of the government, being first duly
11 sworn, testified as follows:

12 THE WITNESS: Detective Frank Dabbiero, Shield
13 No. 2292, New York City Police Department.

14 DIRECT EXAMINATION

15 BY MR. PHILLIPS:

16 Q Detective Dabbiero, how long have you been
17 employed by the New York City Police Department?

18 A A little over 15 years, sir.

19 Q What is your current assignment?

20 A I am a detective assigned to the Bronx District
21 Attorney's office.

22 Q How long have you been assigned to the Bronx
23 District Attorney's office?

24 A Since approximately 1966.

25 Q Directing your attention to 1971, were you

1 hp10 Dabbiero-direct

2 assigned to conduct surveillance in the area of Westchester
3 Avenue in the Bronx?

4 A Yes, sir, I was.

5 Q Specifically, were you assigned to and did you
6 conduct surveillance of a building located at 3203 West-
7 chester Avenue?

8 A Yes, sir, I did.

9 Q What was located at that address?

10 A It was a social club, sir.

11 Q Do you recall if it had a name?

12 A It had a name. I don't recall the name offhand.
13 I used to call it the Wilkinson Avenue Meat Market. That
14 was an old sign that was over the club.

15 Q Do you know if it was ever called the Beach Rose
16 Social Club?

17 A Yes, sir, it is.

18 Q What period of time did you conduct surveillance
19 of that particular address?

20 A My surveillances started approximately May 15,
21 1971, and they finished at approximately January 15, 1972.

22 Q Did anybody conduct surveillance with you or
23 accompany you while you were conducting surveillance?

24 A Yes, sir.

25 Q Who?

hpl0a

Dabbiero-direct

A Different detectives at different times.

Detective Lang, Detective Coyne, Detective Vousten,

Detective McNamee.

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Q Now, Detective Dabbiero, during the period of time that you have just indicated, May of '71 to June of '72, can you tell us approximately how many times you went to the area of 3203 Westchester Avenue?

A I was there approximately 45 or 50 times, sir.

Q And what hours did you go there?

A Different hours, sir.

Q Both day and night?

A Yes, sir.

Q And how long did you usually stay? That is, how long was your surveillance?

A I would say on an average of four to six hours, sir.

Q And where did you generally conduct your surveillance, that is, from where did you conduct the surveillance?

A Normally in that area I would be moving, if I were -- you know, I would stay parked a while and then I would move.

Q Now, did you have occasion during the 45 to 50 days that you went there -- did you have occasion to see an individual whom you later name to know by the name of Louis Inglese?

A Yes, sir.

pp2

Dabbiero-direct

Q And of the 45 to 50 days that you went there, how many days did you see him?

A I would say I saw him most of the time, sir.

Q That would be just about every day?

A Approximately about every day; yes, sir.

Q Could you tell us what you observed him doing?

A Well, he would go to the club, go inside, talk to people standing around out front.

Q Did you ever have occasion to see him go to a place called the Blue Lounge?

A Yes, sir; I did.

Q Where is that located?

A It's located on Westchester Avenue and Crosby.

Q Of the four to six hours that you generally conducted your surveillance, how much of that time was Inglesè in the area of 3203 Westchester Avenue?

A I would say that he was there most of the time. sir. He would sometimes leave, but normally he would be there most of the time.

Q Were you there on both week days and weekends, or generally week days or generally weekends?

A Mostly week days, sir.

Q Did you ever have occasion to observe an individual whom you later came to know by the name of

1 pp3

Dabbiero-direct.

2 Frank Stasi?

3 A Yes, sir; I did.

4 Q And how often did you see him there?

5 A Quite often. Very often.

6 Q How about a person whom you later came to know
7 as Donato Christiano?

8 A Yes, sir.

9 Q How often did you see him there?

10 A Often.

11 Q How about a person whose last name you later
12 came to know as Pellegrino?

13 A Yes, sir.

14 Q How often did you see him there?

15 A I saw him often, too. He was there quite a bit.

16 Q How about a person whom you later came to know
17 by the name of Joseph Delvecchio?

18 A Yes, sir.

19 Q How often did you see him there?

20 A I saw Delvecchio -- I couldn't say how often.
21 He was there quite a bit of the time, but I couldn't say
22 how often, sir.

23 Q Now, did you or Detective Langan, the first
24 detective whom you mentioned, take any photographs of what
25 you observed?

A Yes, sir; we did.

Q Do you recall what dates the photographs were taken?

A Photographs with Detective Langan were taken May 17th and 19th, I believe, sir.

MR. SIEGAL: Could we have the year?

THE WITNESS: Of 1971, sir.

Q And how about yourself?

A I took photographs again on August the 20th of 1971.

Q I show you, Detective Dabbiero, what's been marked Government's Exhibit 1A in evidence. Can you identify the individuals in that photograph?

A The man on the right is Mr. Inglese, and the man on the left is Delvecchio.

Q And who took that photograph, do you know.

A This photograph was taken by either me or Detective Langan, on the first two days of shooting.

Q Now, I show you what has been marked Government's Exhibits 20 through 20E, six photographs. Can you tell us, if you know, who took those photographs and on what day?

A I took those photographs on the 20th of August, 1971.

Q Can you identify the individuals in those photo-

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Dabbiero-direct

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graphs?

A Marmone and Barnaba.

Q What is Marmone's first name?

A Angelo Marmone.

Q And Barnaba's first name, if you know?

A I don't know, sir.

MR. PHILLIPS: Your Honor, at this point the government asks that a number of items be marked as Government exhibits, which I am now handing to the clerk.

THE COURT: I assume you want them marked just in numerical sequence.

MR. PHILLIPS: Yes, your Honor.

THE COURT: Ladies and gentlemen of the jury, believe it or not, this jumble little task that the clerk has been given to do does take time and it is just about time for your lunch anyway, so I am going to ask the marshals to escort you to lunch, and we will have these things all marked by the time you get back at 2 o'clock.

(The jury left the courtroom.)

THE COURT: All right. These exhibits will be marked Government's Exhibits 23 through 49. Hopefully my math is correct. I understand that certain 3500

material was distributed last night, Mr. Curran,
is that correct?

MR. CURRAN: That's right, your Honor.

THE COURT: Can we have that marked?

MR. CURRAN: Yes, your Honor.

Your Honor, Mr. Phillips points out that if
we mark the Barnaba material first, what I was doing to
deal with, the 3500 material which I was going to deal
with, will be out of order. It may be easier to mark
the other first.

THE COURT: All right. There's no need
for us to sit here and watch the clerk attach exhibit
numbers to the photos.

MR. PHILLIPS: I could, your Honor,
state for the record, the 3500 material relating to the
witnesses prior to Barnaba.

THE COURT: Is that something that has
already been turned over?

MR. PHILLIPS: Yes.

THE COURT: It has been?

MR. PHILLIPS: It has been.

THE COURT: Why don't you do me a favor?
Do you have a list of it? I am sure you make up a
list.

1 mpa

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2 MR. PHILLIPS: Yes.

3 THE COURT: Before we get back -- we will
4 add the Barnaba stuff and mark the whole thing at one fell
5 swoop. We will get away from the clerical aspects of
6 this.

7 Two o'clock.

8 (Luncheon recess taken.)
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AFTERNOON SESSION
2.00 P.M.

(Jury not present.)

MR. ELLIS: Your Honor, I might report to the Court that during the recess Mr. Engel and I met with the marshals, and we inspected the Daily News, January 28th and 29th. Apparently the articles relating to that Brooklyn investigation were not in the edition given to the jury. The marshals represented to us that The New York Times and New York Post for those days were not given to the jury.

THE COURT: Fine. Thank you, Mr. Ellis.

By the way, that is a thankless job, and I appreciate your taking it on.

MR. ELLIS: There is very little to do, your Honor. The marshals are quite efficient.

(Jury in box.)

THE COURT: Ladies and gentlemen, as you recall, we took a break a few moments earlier because there were certain items, photos, that had to be marked for identification.

THE CLERK: Government's Exhibits 23 through 48 are marked for identification.

Government's Exhibits 3534, 3534-A through

1 pp2

2 3541 are marked for identification.

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3 (Government's Exhibits 23 through 48 marked
4 for identification.)

5 (Government's Exhibits 3534, 3534-A through
xx 6 3541 marked for identification.)

7 F R A N K D A B B I E R O, resumed.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. PHILLIPS:

10 Q Detective Dabbiero, I want to show you some
11 photographs which have been marked as Government's Exhibits
12 23 through 48 for identification. Would you look through
13 each of those photographs and tell us whether you or some-
14 body with you took any of those photographs and when, if
15 you can recall, if you can tell us, the photographs were
16 taken and of what area they were taken.

17 A This --

18 Q Refer to them, if you would, by the number on
19 the back. In this case, Government's Exhibit 36 for
20 identification.

21 A Exhibit No. 36 was taken by either myself or
22 Detective Langan on either the 17th or the 19th of May.

23 Q What does it depict, if you know?

24 A This is Mr. Inglese, and the other person I
25 don't know. I don't recall the name offhand.

pp3

Dabbiero-direct

Q And where does it show Mr. Inglese to be?

A This is in the area of the social club, 3203 Westchester Avenue.

Q Would you proceed with the next one, which is Government's Exhibit 26 for identification?

A No. 26 was taken in the same location. That's Mr. Inglese. -- at about the same time.

Q Government's Exhibit 31 for identification?

A No. 31 was taken in front of the social club, again on May 17th or 19th, and that's Mr. Inglese, Mamone and Christiano.

Q And is Mamone the one designated No. 3?

A Mamone is No. 3. That's correct.

Q And Government's Exhibit 30 for identification?

A 30 was taken at the same time, the same location, sir.

Q And the individuals in that photograph are who?

A No. 4 is Mr. Christiano. No. 2 is Mr. Mamone.

Q Government's Exhibit 29 for identification?

A No. 29 was taken at the same -- at the same time, either May 17th or 19th.

Q Government's Exhibit 28?

THE COURT: Before we leave 29, who is in 29?

Q Can you identify the individuals in 29?

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Dabbiero-direct

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A No. 1 is Mr. Mamone and No. 2 I don't know.

Q Government's Exhibit 28 for identification?

A This was taken at the same time or day, and No. 2 is Mr. Mamone; No. 3 is Mr. Christiano.

Q Do you know the other individual, No. 1?

A No. 1, I know him as Zanfardino or Gollio -- I don't know.

Q No. 24 for identification?

A No. 1 is Mr. Mamone. No. 2 is Mr. Inglese.

Q Is it the same area?

A This again was taken May 17th or 19th, at the same location.

Q Government's Exhibit 25 for identification?

A This was taken in the same area, one either one of the two days. No. 1 is Mr. Stasi and No. 2 is Mr. Christiano.

Q Government's Exhibit 35 for identification?

A This was taken at the same location but on August the 20th. This was taken by me, and that's Mr. Inglese, and the other one is an unknown male. I don't know him.

Q Government's Exhibit 34 for identification?

A This was taken May 17th or 19th and at the same location. That's Mr. Inglese, and I don't know the other one.

Q No. 33 for identification?

A This was taken at the same location, on the same days, either May 17th or 19th. No. 1 is Mr. Inglese, and No. 2 is Mr. Patalucci.

Q Government's Exhibit 32 for identification?

A This again was taken at the same location, on May 17th or 19th of '71. No. 1 is Mr. Tutino. No. 2 is Mr. Inglese, No. 4 is Mr. Stasi, and I can't recall the gentleman, No. 3, at this point.

Q No. 1, Mr. Tutino, did he have any other name, to your knowledge?

A He was known as "The General."

Q Government's Exhibit 37 for identification?

A This was taken at the same location, May 17th or 19th, and that's Mr. Inglese.

Q Government's Exhibit 38 for identification?

A Again, at the same location, the same dates, and that's Mr. Christiano and Mr. Stasi.

Q Government's Exhibit --

A I don't know who No. 3 is.

Q Government's Exhibit 39 for identification?

A This was taken by me on August the 20th. That's Mr. Delvecchio and a gentleman that I don't know, his name is Roselli, if I am not mistaken.

Q Government's Exhibit 40 for identification?

A This was taken May 17th or 19th. That's Mr. Inglese, and the other man is known to me and I just can't think of his name offhand.

Q Government's Exhibit 41 for identification?

A This, again, was taken at the same time and location, May 17th or 19th. This is Mr. Inglese.

Q Government's Exhibit 44 for identification?

A Exhibit 44 was taken at the same location, either May 17th or 19th, and Mr. Inglese is in the middle and the other two gentlemen, I don't recall the names.

Q Government's Exhibit 45 for identification?

A This was taken either the 17th or the 19th, the same location.

That's Mr. Inglese.

Q Government's Exhibit 46 for identification?

A This was taken at the same time, the same location. Mr. Inglese is No. 1 and I don't know who the other two are.

Q Government's Exhibit 47 for identification?

A This was again taken May 17th or 19th at the same location. No. 1 is Mr. Inglese, No. 2 is Mr. Christiano. This other gentleman is either Zanfardino or

Collio, and I don't know who the other one is.

Q Government's Exhibit 48 for identification?

A No. 48 was taken at the same time and date.

The same area. No. 2 is Mr. Inglese, and No. 1 I just can't recall his name.

Q Government's Exhibit 23 for identification?

A This was taken May 17th or 19th, the same area. No. 1 is Mr. Mamone. No. --

Q Who is the gentleman standing to his left?

A To his left would be Mr. Christiano.

Q Do you know the other gentleman?

A I know him by two names, Zanfardino or Collio. I don't know his name.

Q Government's Exhibit 27 for identification?

A 27 was taken August the 20th and this was taken at the same location.

Q Was it taken by you?

A This was taken by me, yes, sir. No. 1 is Mr. Inglese.

Q And Government's Exhibits 43 for identification and 42 for identification?

A These two exhibits were taken at this same location, either on the 17th or the 19th of May, 1971.

Exhibit No. 43, there is Mr. Stasi and there's Mr. Christiano

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Dabbiero-direct

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I don't know who the other gentleman is. And on Exhibit No. 42, Mr. Christiano and Mr. Inglese, and the other two are unknown to me.

MR. PHILLIPS: Your Honor, the government offers Exhibits 23 through 48 for identification.

THE COURT: All right. Show them to counsel.

MR. PHILLIPS: May these be marked for identification.

(Pause.)

jhal

1 THE COURT: All right, we have have had an
2 offer of these to be received in evidence. Is there
3 an objection?
4

5 MR. ELLIS: Yes, your Honor. I have a
6 specific objection I would like to make at the side bar.

7 THE COURT: All right. Anybody else have
8 any objection?

9 All right.

10 (At the side bar.)

11 MR. ELLIS: Your Honor, in addition to the
12 general grounds of relevance and materiality and the lack
13 of competence to establish that Mamone was party to
14 any conspiracy, I object to the photographs on the
15 ground that the cumulative effect of a great number of
16 photographs over an indefinite period of time, some
17 time within two days, without showing the interval at
18 which these pictures were taken -- they may have been taken
19 within an hour, for all we know -- coupled with the
20 previous six photographs admitted against Mamone, all
21 of which were taken on one day, create such a prejudicial
22 atmosphere of omnipresence that the probative value is
23 far outweighed. I ask that they be excluded for
24 that reason.

25 MR. PHILLIPS: These were all matters that

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Dabbiero-direct-cross

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2 were gone in on cross examination, your Honor.

3 THE COURT: I am well aware of it. They
4 will be received.

5 (In open court.)

6 THE COURT: Mr. Clerk, Government's Exhi-
7 bits 23 through 48 are received in evidence.

8 (Government's Exhibits 23 through 48 were re-
9 ceived in evidence.)

10 THE COURT: Go ahead, Mr. Phillips.

11 MR. PHILLIPS: Your Honor, I have no further
12 questions of the witness. I would like to show the
13 photographs to the jury.

14 THE COURT: All right.

15 (Pause.)

16 THE COURT: All right. Mrs. Rosner, do
17 you wish to examine?

18 CROSS EXAMINATION

19 BY MRS. ROSNER:

20 Q Good afternoon, Officer Dabbiero. My name
21 is Nancy Rosner. I represent Louis Inglese.

22 During the time that you were engaged in
23 surveillance of this club on Westchester Avenue, did you
24 ever have occasion to see the door open, for instance,
25 in warm weather?

1
2 A Yes, ma'am.

3 Q During such periods did you ever have occasion
4 to look in and see individuals within the club playing
5 cards?

6 A No, ma'am, I didn't.

7 Q Did you ever have occasion to see Mr. Stasi
8 inside of the club serving --

9 A Mr. Who?

10 Q An individual known to you as Frank Stasi.

11 A Frank Stasi.

12 Q To go back for a moment, didn't you testify
13 on direct examination that on occasion, many occasions,
14 you saw Mr. Stasi at the club?

15 A That's correct.

16 Q During periods of warm weather when the door
17 was open did you ever have occasion to see Mr. Stasi in-
18 side the club serving food or beverages to the gentlemen
19 in the club?

20 A Counselor, if I can -- I can only recall being
21 near the club where I could look in on two occasions.
22 I wouldn't get that close to it. I have seen the
23 door open.

24 Q On those two occasions when you were close enough
25 to look inside did you see any gentlemen sitting at tables?

1 A I saw a gentleman sitting at a couch. I didn't
2
3 see any tables.

4 Q Did you see any tables within the club with
5 chairs around them?

6 A As I walked by I gave it a quick glance
7 on the one occasion that I recall and there was a couch
8 there. There could have been tables there. I
9 had a very limited view.

10 Q On these two occasions did you ever see Mr.
11 Stasi inside the club serving any of the gentlemen food
12 or drinks who were there?

13 A I have no independent recollection of actually
14 seeing Mr. Stasi in the club when I passed by.

15 Q Thank you, officer. I have no other ques-
16 tions.

17 A You are welcome.

18 THE COURT: Mr. Fisher.

19 CROSS EXAMINATION

20 BY MR. FISHER:

21 Q Detective, you testified, I believe, that from
22 time to time you saw the defendant Donato Christiano in
23 and around the premises of the Beach Rose Club, is that
24 right?

25 A That's correct, sir.

1 Q In addition to observing who was there in the
2 vicinity, one of the things of interest to you as a
3 surveillance officer was to note what cars people were
4 driving, is that right?
5

6 A That's correct, sir.

7 Q And which cars were parked in the vicinity,
8 is that right?

9 A That's correct, sir.

10 Q And as a result of your surveillance and your
11 interest in these matters there came a time when you
12 learned that Christiano drove a 1965 Rambler, is that
13 right?

14 A He drove a Rambler. I don't recall the year
15 offhand, sir.

16 Q During the course of your surveillance or shortly
17 thereafter you would file reports and summaries of your
18 activities, isn't that right?

19 A That's correct, sir.

20 Q And you did so within the period of your
21 surveillance?

22 Within that year or so framework, in that
23 period of time, you would regularly file such reports,
24 isn't that right?

25 A That's correct, sir, yes.

1 Q I show you such reports dated January 12th and
2 January 14th, both of 1972, and invite your attention,
3 sir, to the notations appearing opposite the green index,
4 and I ask you to look at those, tell us whether or not
5 that refreshes your recollection as to whether or not
6 Christiano was observed driving regularly a 1965 Ramb-
7 ler.
8

9 A This on page 133 --

10 Q Sir, just tell us whether or not that refreshes
11 your recollection.

12 A Yes, sir, it does.

13 Q Having had your recollection refreshed can you
14 tell us if it was a 1965 blue Rambler that he was
15 driving?

16 A Yes, sir.

17 Q And it was registered, was it not, to Jean
18 Christiano, is wife?

19 A That's correct, sir.

20 Q You told us that you saw a man named Delvecchio
21 in and around the vicinity of the Beach Rose Club from
22 time to time?

23 A That's correct, sir.

24 Q Of course, you were interested in observing
25 what car he drove to and from the vicinity, is that

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Dabbiero-cross

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right?

A Yes, sir, but I have no independent recollection of seeing him in a car. It would have to be in my reports.

Q None at all?

A I have no recollection at all, sir.

Q Would it refresh your recollection if I were to suggest that during the period of the surveillance time he was seen driving a 1972 tan or goldish tan Electra?

A Sir, it's possible, and if it is so it would be reflected in my reports. But I just don't have an independent recollection of that, sir.

Q Thank you. No further questions.

A You are welcome, sir.

THE COURT: Mr. Ellis.

CROSS EXAMINATION

BY MR. ELLIS:

Q Detective Dabbiero, my name is Robert Ellis and I represent Angelo Mamone.

A Yes, sir.

Q You testified that either you or persons associated with you took this group of photographs that was just introduced into evidence over a two-day period, is that correct?

A No, sir. They were taken on May 17th and 19th and there were some taken on August 20th, over a three-day period.

Q Do you have any independent recollection of the intervals between the taking of each of those photographs?

A No, sir. They were -- whenever anybody appeared, sir, I would take them.

MR. ELLIS: Mr. Phillips, may I have Exhibits 31, 30, 29, 28, 23.

Q Detective, I hand you a group of five photographs, Exhibits 23, 30, 31, 29 and 28, and I ask you whether you can tell me specifically when those photographs were taken.

A Either on the 17th or the 19th of May, sir.

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Dabbiero-cross

I couldn't tell you exactly which day.

Q And --

A Let me check the rest of them too.

Yes, sir, each of these was taken either on the 17th or the 19th of May.

Q Could they all have been the same day?

A Yes, sir.

Q Could they all have been the same hour?

A Yes, sir.

MR. ELLIS: No further questions.

THE COURT: Anyone else wish to cross-examine?

All right, Detective.

MR. PHILLIPS: I have no questions.

THE COURT: All right. Stand down, please.

(Witness excused.)

MR. PHILLIPS: Your Honor, the government calls Frank DeMarco.

F R A N K D e M A R C O, called as a witness on behalf of the government, being first duly sworn, testified as follows:

THE WITNESS: Detective Frank DeMarco, Shield 1959, of the New York City Police Department.

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Is it Detective DeMarco?

1 hp3

DeMarco-direct

2 A Yes, it is.

3 Q How long have you been employed by the New York
4 City Police Department?

5 A 10 years.

6 Q What is your present assignment?

7 A Major Investigations Section of the Organized
8 Crime Control Bureau.

9 Q Did that used to be known as SIU?

10 A Yes, it did.

11 Q Does that investigate narcotics violations?

12 A That's correct.

13 Q In April of 1972 were you assigned to conduct
14 any surveillance?

15 A Yes, I was.

16 Q Where were you to conduct the surveillance?

17 A I was assigned to conduct surveillance at 3203
18 Westchester Avenue in the County of the Bronx.

19 Q Did you take any photographs?

20 A Yes, I did.

21 Q Where were you specifically in relation to 3203
22 Westchester Avenue when you took the photographs?

23 A I was secreted in the Pelham Station, train
24 station, elevated train structure.

25 Q You say you were secreted. Could you elaborate

1 hp4 DeMarco-direct

2 a little bit?

3 A It was a storeroom at the end of the Pelham
4 line station which was inaccessible to the public.

5 Q And you were there?

6 A That's correct.

7 Q Were you alone?

8 A I was alone on occasions and on other occasions
9 with brother officers.

10 Q How many days during April of 1972 were you
11 there, do you recall?

12 A A period of approximately five or six times.

13 Q I show you what has been marked Government's
14 Exhibits 17, 18 and 19 in evidence. Did you take those
15 photographs?

16 A Yes, I did.

17 Q Look at them all, would you, please.

18 Did you take those photographs?

19 A Yes, I did.

20 Q Now I show you what has been marked Government's
21 Exhibits 49 through 58. Would you look at those photo-
22 graphs and tell us whether or not you took those photo-
23 graphs.

24 A Yes, I took all these photographs.

25 Q Did you take all of those photographs from the

1 hp5 DeMarco-direct

2 place that you indicated at the train station?

3 A That's correct.

4 Q With respect to the photograph that has been
5 marked Government's Exhibit 49 for identification, what
6 was the date of that photograph, do you recall?

7 A April 28, 1972.

8 Q Can you tell us who the individuals are that are
9 marked in that photograph as No. 4, No. 3 and No. 5 and No.
10 1 and 2? Tell us all of them.

11 A There is Thomas Lentini.

12 Q Is which number?

13 A Is No. 1.

14 Q Is he known to you as Moe Lentini?

15 A That's correct.

16 Q Who is No. 2?

17 A No. 2 is Benjamin Castellazo.

18 Q Who is No. 3?

19 A No. 3 is Christiano Donato, known to me as
20 Finnegan.

21 Q Who is No. 4?

22 A Is Frank Pellegrino, known to me as Swifty.

23 Q Who is No. 5?

24 A Louis Inglese, known to me as Gigi.

25 Q I show you what has been marked Government's

1 hp6 DeMarco-direct

2 Exhibit 50 for identification. Can you tell us what date
3 you took that photograph?

4 A This photograph was taken in the early part of
5 April and the person is known to me as Vincent Papa.

6 Q I show you what has been marked Government's
7 Exhibit 54 for identification. Can you tell us what that
8 date that was taken?

9 A That was taken on April 28th.

10 Q Can you tell us who are the individuals in that
11 photograph that you can recognize?

12 A Frank Pellegrino.

13 Q Would you tell us what number, if there is a
14 number?

15 A It is No. 1. Mario Starace is No. 2. Benjamin
16 Castellazo is No. 3.

17 Q I show you Government's Exhibit 58 for identi-
18 fication. Can you tell us what date that was taken and
19 who the individuals are in there?

20 A That also was taken on April 28th and subject
21 No. 1 is Ralph Tutino, subject No. 2 is known to me as
22 Mario Starace, and subject No. 3 is known as Finnegan,
23 Christiano Donato.

24 Q Incidentally, is that --

25 MR. KING: Excuse me, Mr. Phillips. Are these

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DeMarco-direct

all in 1972? The detective is mentioning only months and dates.

THE COURT: All right. Let's find out.

Q Which year are we talking about?

A All 1972.

Q What area are we talking about again for these photographs you just talked about, Government's Exhibits 54 and 58 for identification?

A In front of 3203 Westchester Avenue.

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DeMarco-direct

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Q And Government's Exhibit 57 for identification:
did you take that?

A Yes; I did.

Q On what date?

A April 28, 1972.

Q Can you identify any of the individuals in that?

A It's Frank Stasi, known to me as Boo-Boo.

Q Government's Exhibit 56 for identification:
can you tell us if you took that and on what date?

A It's also taken on April 28th, and subject No. 1
is Benjamin Castellazo; subject No. 2 is Mr. Di Napoli,
I believe Joseph Di Napoli; subject No. 3 is Ralph Tutino.

Q Do you recognize anybody else in there?

A Subject No. 4 is a civilian that has been
identified but not related to this case.

Q Government's Exhibit 55 for identification:
can you tell us what date you took that photograph on?

A It's also taken on April 28th.

Q Can you identify any of the individuals on that
photograph?

A Subject No. 1 is Ralph Tutino; subject No. 2
is Mario Starace; subject No. 3 is Louis Inglese; subject
No. 4 is Vito Falcetti; and subject No. 5 is Benjamin
Castellazo.

pp2

DeMarco-direct

Q And Government's Exhibit 51 for identification:
was that taken on April 28th also?

A That's correct.

Q And who are the individuals, if you can tell us,
who are in that photograph?

A Subject No. 1 is Benjamin Castellazo; No. 2 is
an unidentified male; No. 3 is Louis Inglese; No. 4 is
Mario Starace, and No. 5 is Frank Stasi.

Q And Government's Exhibit 52 for identification?

A No. 1 is Mario Starace; No. 2 is Ralph Tutino;
No. 3 is Louis Inglese, and No. 4 is Benjamin Castellazo.

Q And that was taken on April 29th, too?

A That's correct.

Q And Government's Exhibit 53 for identification:
was that also taken on April 28th?

A That's correct.

Q And can you identify the individuals on that
photograph?

A No. 1 is Ralph Tutino; No. 2 is Angelo Mamone;
No. 3 is Mario Starace and No. 4 is Christiano, Donato.

MR. PHILLIPS: The government offers Govern-
ment's Exhibit 49 through 58 for identification.

THE COURT: While counsel are examining the
proposed exhibits, ladies and gentlemen, why don't you take

1 pp3

DeMarco-direct

2 a break. Be back in about 10 minutes. The marshal will
3 bring you back.

4 (The jury left the courtroom.)

5 (The witness left the courtroom.)

6 THE COURT: If you could, just run through
7 those exhibits for 15 minutes.

8 (Recess.)

9 (Jury not present.)

10 MR. ROSENBERG: Your Honor, I have an applica-
11 tion.

12 If your Honor please, with respect to Exhibit
13 No. 50, the government's offer with respect to that is that
14 that is the picture of Vinnie Papa. Now, I know Vinnie
15 Papa, and I make it as an offer of proof that that is not
16 his picture, and I suggest that the reason they alluded to
17 it is because Vinnie Papa is known as a major narcotics
18 dealer.

19 I move for a mistrial.

20 THE COURT: The motion is denied.

21 Let me see the picture. I haven't seen any of
22 these pictures.

23 As I tried to indicate before, I would like to
24 cut down on the needless asking of attorneys if they want
25 to cross-examine a particular witness. It could serve to

1 pp4

2 in some way prejudice you, and I want to avoid it.

3 I notice there was some surprise when the last
4 witness took the stand.

5 I have asked Mr. Lopez to pass around something
6 saying, "Who wants to cross-examine the witness?" Does
7 anybody object to my doing it that way, as opposed to the
8 old style?

9 MR. LOPEZ: No, your Honor. I think that's very
10 good.

11 THE COURT: It might be different from the old
12 style, but I do things different.

13 Who wants to cross-examine?
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De Marco-direct

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MR. ROSENBERG: We have the very serious situation with respect to that picture that's being offered as a photo of Vinnie Papa, who is known to be a major narcotic dealer, and I represent to this court that it is not.

THE COURT: Well, this witness has identified him as Vinnie Papa. I don't know what he looks like.

MR. LOPEZ: Your Honor, can we have him produced here tomorrow to see if his recollection can be refreshed? Your Honor, I can represent to the court that I have known Vincent Papa for some time and Vincent Papa in his best days never looked that good. It is not Vincent Papa.

MR. PHILLIPS: I have no objection if Mr. Lopez wants him produced as part of his case, but it is not part of the government's case.

MR. LOPEZ: To refresh his recollection, your Honor.

MR. PHILLIPS: The witness can be cross examined on the matter.

MR. LOPEZ: If he were faced with the actual Vincent Papa, your Honor, he could take a look at his photo and we could settle it right there.

1 We can't cross examine the witness on his
2 belief. He thinks it is Vincent Papa, and that's it.

3 THE COURT: I hear you. Basically you
4 want to cross examine him tomorrow?

5 MR. LOPEZ: That's correct, basically I want
6 him to take a look at Vincent Papa.

7 THE COURT: Well, that I imagine could be
8 done.

9 Does anyone else want to cross examine with-
10 out this particular Exhibit No. 50?

11 MRS. ROSNER: I have one question.

12 THE COURT: One question?

13 MR. PHILLIPS: Your Honor, I haven't
14 finished direct examination. I didn't want the court
15 to be under the impression that I had.

16 THE COURT: All right. Let's get the
17 jury and the witness back.

18 (Jury present.)

19 (Witness on the stand.)

20 MR. PHILLIPS: Your Honor, may these exhibits
21 be received in evidence.

22 THE COURT: I understand that there is one
23 objection by you, Mr. Rosenberg.

24 MR. ROSENBERG: Yes, sir.

1 THE COURT: And I assume other counsel will
2 join in that. Do you make a general objection?
3

4 All right. They will be received.

5 (Government's Exhibits 49 through 58 were
6 received in evidence.)

7 MR. PHILLIPS: May I show these to the jury,
8 your Honor?

9 BY MR. PHILLIPS:

10 Q Detective De Marco, did you take any photographs
11 of this area after April 28, 1972?

12 A No, I didn't.

13 Q Did you conduct any surveillance after April
14 28, 1972?

15 A Yes, I did.

16 Q Did anything unusual occur on April 28, 1972,
17 that caused you not to take any photographs thereafter?

18 A Yes, there was.

19 Q Will you tell the jury what occurred on
20 that date?

21 A On that date I observed a person known to me
22 as Vito Falcetti enter the club. A short time there-
23 after, Ralph, The General, Tutino, exited the club, looked
24 up in the general direction of the location where I was
25 secreted in and started making arm motions indicating the

scope of view from where he was standing to the location where I was. A short time thereafter, a lot of persons that were in the club exited the club and looked in our direction, the direction that I was in.

Later on, Louis Inglese and Benjamin Castellazo walked underneath the location where I was. At that time it was apparent to me that the location that I was in was known --

MRS. ROSNER: Objection to what was apparent and move to strike it.

THE COURT: Yes. We don't care what was apparent to you. Just tell us what you saw.

Q Did Inglese and Castellazo make any movements in your direction?

A Yes, they did.

Q What did they do?

A They walked to my direction, walked directly underneath where I was secreted and looked up in that direction and continued on walking.

Q The individual known as Vito Falcetti: what was he wearing when he went into the club?

A He was wearing a light blue shirt, dark navy pants, trousers, and a blue tie, the same type of uniform that the New York City Transit Authority wears.

1 mpa

De Marco-direct-cross

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2 MR. PHILLIPS: I have nothing further
3 at this time.

4 MRS. ROSNER: Your Honor, I have one ques-
5 tion. May I ask it from here?

6 CROSS EXAMINATION

7 BY MRS. ROSNER:

8 Q Detective, do you know whether Mr. Falcetti
9 is Mr. Inglese's brother-in-law? Just yes or no.

10 A No.

11 MRS. ROSNER: No further questions.

12 THE COURT: Officer, would you step down.
13 However, would you do me a favor, please, and hold your-
14 self available and be around tomorrow morning, all
15 right?

16 Thank you very much.

17 (Witness excused.)
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2 K E V I N D A L Y, called as a witness by
3 the government, being first duly sworn, testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. PHILLIPS:

7 Q Mr. Daly, by whom are you employed?

8 A New York City Police Department.

9 Q And your rank is a detective?

10 A That's correct.

11 Q How long have you been a detective?

12 A Since November.

13 Q How long have you been employed by the New
14 York City Police Department?

15 A Eight years.

16 Q When you say November you mean November of

17 A That's correct.

18 Q Incidentally, where are the Police Headquarters
19 now located?

20 A One Police Plaza, New York City.

21 Q Is that right behind this building, the
22 courthouse?

23 A That's correct.

24 Q Where is your present assignment?

25 A I am assigned to the New York Drug Enforcement

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Daly-direct

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2 Task Force.

3 Q What are your duties in that assignment?

4 A Narcotics investigations.

5 Q How long have you been with the New York
6 Joint Task Force?

7 A Since May of 1973.

8 Q Where were you assigned in February of 1973,
9 what was your assignment then?

10 A I was assigned to the Special Investigation
11 Unit of the Narcotics Division of the New York City
12 Police Department.

13 Q Was it part of your duties then to investigate
14 narcotics violations?

15 A That's correct.

16 Q Who was your immediate superior at that time?

17 A Sargeant Martin O'Boyle.

18 Q Directing your attention to the evening of Febru-
19 ary 12, 1973, were you working that evening?

20 A Yes, I was.

21 Q What was your assignment at that time?

22 A I was a surveillance officer assigned to a buy
23 operation.

24 Q Did that buy operation involve a man named Frank
25 Stasi?

1
2 A Yes, it did.

3 Q Did you have occasion to follow Mr. Stasi
4 that evening?

5 A Yes, I did.

6 Q Where did you follow him to?

7 A I followed him from the Log Cabin Bar and
8 Grill on Westchester Avenue to the Lo Piccolo Espresso
9 House on Westchester Avenue and Hobart Avenue.

10 Q Did you tell us what time Stasi arrived at the
11 Lo Piccolo Espresso Shop?

12 A Approximately 8:40 hours.

13 Q In the evening?

14 A That's correct.

15 Q Did you see what he did there?

16 A Yes. He went inside to the Lo Piccolo and
17 he exited from the Lo Piccolo with two other males
18 at about 9 o'clock.

19 Q Were you able at that time to recognize the
20 other two males that he exited with?

21 A No, I wasn't.

22 Q What occurred after that, do you recall?

23 A Yes. I followed them to the Bon-Soir
24 Tear Drops, a night club on Baychester Avenue and Boston
25 Road.

Q Did they go there by automobile?

A Yes. They went in Mr. Stasi's car. Mr. Stasi was driving.

Q Who were you with, by the way?

A I was alone at the time.

Q What happened after they arrived at the Tear Drops Bon-Soir or the Bon-Soir Tear Drops? Which is the name, do you know?

A It is the Bon-Soir Tear Drops.

Q What happened after they arrived there?

A Mr. Stasi pulled up in front of the Bon-Soir Tear Drops and the two males that he had picked up at the Lo Piccolo exited from his auto and went into the night club, into the Tear Drops.

Q What did he do?

A He remained in his automobile outside.

Q What did you do?

A I called other surveillance officers by radio and I kept Mr. Stasi under observation.

Q What did you then observe Mr. Stasi do?

A He parked his automobile and went into the Bon-Soir Tear Drops.

Q What did you then do?

A I had a meeting with the other surveillance

officers at that time.

Q As a result of that meeting what, if anything, did you do?

A At approximately 9:30 myself and Detective O'Donnell went into the night club, into the Tear Drops.

Q Did you have a difficult time getting into the Tear Drops?

A Yes, we did.

Q Would you explain why you had a difficult time?

A We were told by the maitre d' that it was strictly reservations and if we didn't have a reservation we wouldn't be permitted in?

Q Did you see the reservation list?

A Yes, I did.

Q Did you see any names on the list?

A Yes, I did.

Q What were the names, if you can recall?

MR. SIEGAL: I object to it.

THE COURT: No, I will permit it.

Q You may answer the question, Detective Daly.

A I saw various first names, no last names.

Q Did you and Detective O'Donnell eventually get inside the Tear Drops?

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A Yes, we did.

3

Q Where did you go once you were inside?

4

A We went to the middle of the bar inside the location.

5

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Q Was there anybody playing at the Tear Drops that evening?

7

8

A Yes. The Buddy Rich Orchestra was playing that evening.

9

10

Q Did you and O'Donnell go to the bar, did you say?

11

12

A Yes, we did, sir.

13

Q Did you observe Mr. Stasi inside?

14

A Not right away.

15

Q After a while did you observe Mr. Stasi?

16

A Yes.

17

Q Did you see where he was located?

18

A Yes, sir. He was sitting at a table in the extreme right-hand corner of the Tear Drops.

19

20

Q Were there other people sitting at the table?

21

A Yes, there were.

22

Q Did you recognize any of the other people sitting at the table?

23

24

A Yes, I did.

25

Q Who did you recognize?

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Daly-direct

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2 A Carmine Tramunti.

3 Q Do you see Mr. Tramunti in the courtroom to-
4 day?

5 A Yes, I do.

6 Q Would you point him out, please, where he is
7 sitting and what he is wearing?

8 A To my extreme right over here.

9 Q What is he wearing?

10 A A bluish jacket, light blue shirt?

11 MR. PHILLIPS: May the record reflect the
12 witness has identified the defendant Tramunti.

13 Q Where was Mr. Stasi in relation to Mr. Tra-
14 munti?

15 A He was seated right next to him.

16 Q Approximately what time did you first observe
17 Mr. Stasi seated next to Mr. Tramunti?

18 A Approximatel6 9:55 p.m.

19 Q Did you observe wehat they were doing?

20 A Yes. They were talking to one another.

21 Q Were there other people seated at the same
22 table?

23 A Yes, there were.

24 Q Can you tell us how many?

25 A It was two females and four other males.

Q Did you recognize any of these individuals?

A No, I didn't.

Q Was there anybody standing nearby?

A Yes. There was one individual standing nearby.

Q Where was he standing in relation to Mr. Tramunti?

A He was standing to the left of Mr. Tramunti.

Q How far away?

A He was directly next to him, but they were separated by a platform, like a one-step platform.

Q Could you recognize that individual?

A No, sir, I did not.

Q Could you describe him?

A He was a white male, approximately six foot two, approximately 250, 240 pounds, with a grayish suit, blue shirt, dark tie.

Q How long were you there inside the Tear Drops Don-
Soir that evening?

A For approximately five hours.

Q Until what time?

A Until approximately 3:15 a.m.

Q Was Mr. Tramunti there in the entire time
that you were there?

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Daly-direct

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A Yes, sir, he was.

Q How about Mr. Stasi?

A He wasn't there the entire time, no. He was gone for about 40 minutes or so.

Q Did he return?

A Yes, sir, he did.

Q Did he leave with Mr. Tramunti or when Mr. Tramunti left?

A At approximately the same time, yes, sir.

Q Was the individual who was standing nearby there the entire time Mr. Tramunti was there?

A Yes, sir, he was.

Q Was he also standing or did he sit at any time?

A He was standing whenever I saw him.

Q Do you recall whether or not he was facing Mr. Tramunti or facing in some other direction?

A No, he was facing the bar.

Q Was that away from Mr. Tramunti?

A That's correct.

MR. PHILLIPS: Mr. Engel, would you set up the blackboard now, please.

Mr. Siegal, could you come here a minute, please?

(Pause.)

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Daly-direct

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MR. PHILLIPS: Your Honor, may this
blackboard be marked as an exhibit or be deemed marked
as an exhibit?

THE COURT: Yes, we will deem it marked.

(Government's Exhibit 59 was deemed marked
for identification.)

THE COURT: Ladies and gentlemen, I am going
to ask you to step out with the marshal and be back in
five minutes. We will have this thing set up right.

(The jury left the courtroom.)

xxx

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1 hpl
2 THE COURT: Gentlemen, the reason I excused the
3 jury, I think there is a drawing on the blackboard.

4 Mr. Phillips, is that correct?

5 MR. PHILLIPS: Yes.

6 THE COURT: You want to tell defense counsel
7 what the drawing is?

8 MR. PHILLIPS: I told Mr. Siegal, but the drawing
9 depicts the Teardrops Bon-Soir, the inside of it.

10 THE COURT: Would you gentlemen please take a
11 look at this drawing. I gather it's a line drawing, from
12 what I spot of it. Come up and take a look at it.

13 (Pause.)

14 THE COURT: Has everyone taken a look at the
15 representative line drawing?

16 Does anyone have an objection?

17 MR. SCHWARTZ: On behalf of defendant Al Greene
18 I would raise the objection that it certainly has no rele-
19 vancy to him, and if it is to be shown, I would like the
20 jury to be told once again that it is not binding as to
21 this particular defendant or any other defendants, rather
22 than the same instruction as was previously given.

23 MR. FISHER: Your Honor, I would object to any
24 cautionary instruction at this time. It would only serve
25 to heighten the desired effect by the government. This

1 is trivial and it shouldn't be treated in any other way.

2
3 MR. SCHWARTZ: Your Honor, with all due respect,
4 it's certainly not trivial to my particular client.

5 THE COURT: I am not suggesting that you
6 consider it trivial in the slightest bit. However, my
7 problem is all we have now is a representational drawing
8 and I don't think that that requires a specific instruction
9 to the jury.

10 Is there anybody else?

11 All right.

12 Everybody else take your place, please.

13 Mr. Siegal, I assume you are standing back there
14 so you can see --

15 MR. SIEGAL: Yes, sir. I want to see it as
16 the testimony comes in.

17 THE COURT: All right. Bring back the jury,
18 please.

19 (Jury present.)

20 THE COURT: Ladies and gentlemen, as I promised,
21 we worked out the setting up of the blackboard without
22 involving you in engineering details.

23 All right, Mr. Phillips. Go ahead.

24 BY MR. PHILLIPS:

25 Q Detective Daly, I show you what has been

1 marked Government's Exhibit 59 for identification. Does
2 that diagram on that blackboard accurately represent the
3 inside of the Bon-Soir Teardrops?
4

5 A Yes, it does.

6 Q Do you have a piece of chalk in your hand?

7 A Yes, sir.

8 Q Would you indicate where on that diagram you
9 and Detective O'Donnell were when you first observed Mr.
10 Stasi and Mr. Tramunti?

11 A Right at the bar, in the middle of the bar.

12 Q Keep your voice up because you are not speaking
13 now into the microphone.

14 THE COURT: Explain the X that you put on there
15 into the microphone so everybody can hear you.

16 A Where I marked the X on the blackboard is where
17 myself and Detective O'Donnell were standing, approximately
18 in the middle of the bar.

19 Q Would you please point out the table at which
20 Mr. Stasi and Mr. Tramunti were sitting.

21 Now would you put an S where at that table Mr.
22 Stasi was sitting and a T where at that table Mr. Tramunti
23 was sitting.

24 Now would you indicate where the individual was
25 located who was standing near --

1 hp4
2 Daly-direct
3 THE COURT: Hold it. I don't know if you folks
4 on the jury can see this at all.

5 This is a table here. There is a T here and
6 there is a S here. Until I got very close I couldn't see
7 it.

8 Go ahead.

9 Q Would you indicate with another X where the
10 individual was located that was standing near Mr. Tramunti,
11 as you described.

12 There is a word on that diagram that says "Men's,"
13 I believe. Is that the men's room?

14 A The men's room is behind that.

15 Q There is the word "Band." Is that where the
16 Buddy Rich band was located?

17 A That's correct, sir.

18 Q The circles to the left of that, what do they
19 represent?

20 A That's other tables inside the premises.

21 Q Where were most of the patrons located that were
22 listening to Buddy Rich?

23 A At those tables and at the bar.

24 Q Were there any other tables where Mr. Tramunti
25 was located?

 A There was one other -- two others, I believe.

1
2 Q Was there anything that separated the area that
3 Mr. Tramunti was sitting at away from the rest of the bar?

4 A Yes, sir. There was a one-step platform and
5 that was encircled by a castiron or wrought-iron fence.

6 Q Mr. Tramunti's table and the other two tables
7 were located inside of that?

8 A That's correct.

2 9 Q Just point out to the jury, if you would, where
10 that castiron fence is located in the diagram.

11 A Around this area here.

12 Q Where is the entrance to the bar?

13 A The entrance to the bar is right here.

14 Q Were Mr. Stasi and Mr. Tramunti at that same
15 table everytime you saw them in the bar that evening?

16 A That's correct.

17 Q Were they always sitting next to each other?

18 A That's correct.

19 MR. PHILLIPS: I have nothing further at this
20 time.

21 CROSS EXAMINATION

22 BY MR. SIEGAL:

23 Q Mr. Daly, when you observed the table at which
24 you say Tramunti was seated who was there with him, how
25

2 many other people, if you know?

3 A Mr. Stasi.

4 Q Yes?

5 A Two other females and three other males.

6 Q Two other females?

7 A Right.

8 Q Could it be three females?

9 A It might have been at one time.

10 Q It might have been. Do you know?

11 A I would say two.

12 Q Does your report say three?

13 MR. PHILLIPS: Objection, your Honor, to the form
14 of that question.

15 Q I ask you to look at your report.

16 MR. PHILLIPS: Your Honor, I object.

17 THE COURT: I assume you are withdrawing --

18 MR. SIEGAL: I will withdraw the last question.

19 THE COURT: All right.

20 Q You made out a report with respect to your sur-
21 veillance that evening?

22 A That's correct.

23 Q I show you this paper dated February 12, 1973,
24 and ask you to look at it, tell us whether or not that is
25 your report.

I don't mean my notes. I mean the typewritten part.

A I wasn't reading your notes, sir.

Q All right.

A Yes, sir.

Q Does it refresh your recollection that there were at the table five male whites and three female whites?

A Yes, it does.

Q You saw these people sitting there you say for a number of hours?

A. That's correct, sir.

Q What did you see them do, if anything?

A I saw Mr. Stasi in conversation with Mr. Tramunti.

Q Is that all you saw over all of those hours that you observed that table?

A No, sir.

Q Were the people at the table eating or drinking?

A Yes, sir.

Q Continuously throughout the night?

A Yes, sir.

Q Did you listen to this Buddy Rich?

A Yes, sir.

Q He has, I understand, a pretty loud orchestra,
has he not?

1
2 A Yes, sir.

3 Q Did there come a time that you and your brother
4 officers got a table directly next to this table where you
5 say Mr. Stasi and Mr. Tramunti were seated?

6 A That's correct, sir.

7 Q Did you overhear any conversation at the table?

8 A No, sir, I didn't.

9 Q What?

10 A Not that I could distinguish, no, sir.

11 Q Did you at one time send out for a camera and
12 film?

13 A That's correct, sir.

14 Q And during the evening were pictures taken?

15 A That's correct, sir.
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Q May I see the pictures that you took of Stasi

and Tramunti?

A The camera malfunctioned, sir.

Q The camera malfunctioned?

MR. SIEGAL: No further questions.

THE COURT: All right. Is there

anybody else who wishes to inquire?

All right, you can step down.

(Witness excused.)

THE COURT: Ladies and gentlemen, we are

going to take an early break this afternoon and you can go

with the marshal right now.

(The jury left the courtroom.)

THE COURT: All right, between now and

tomorrow morning I would appreciate it if someone would

remove the blackboard so I can sit back and see the

witness. All right. Ten o'clock tomorrow morning.

MR. WARNER: Your Honor, I am going to

be slightly delayed tomorrow morning because of another

court engagement. Mr. Richman will cover for me.

THE COURT: Your client consents?

MR. WARNER: Yes.

MR. SCHWARTZ: I also have that problem

and Mr. Dowd will cover for me.

1 mpa

967a

2 Mr. Greene has a chest ailment and will
3 be away for a few hours. I consent to his not
4 being present.

5 (Adjourned to February 6, 1974, at 10:00 a.m.)
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WITNESS INDEX

<u>Name</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Frank Stasi (Resumed)		828	873	899
Frank Dabbiero	909	927		
Frank DeMarco	934	948		
Kevin Daly	949	963		

EXHIBIT INDEX

<u>Government</u>	<u>Identification</u>	<u>In Evidence</u>
23 through 48	919	927
3534	919	
3534-A through 3541	919	
49 through 58		946
59 (deemed)	958	